Comment Response Document

Comment ID#	Org/ Commenter	Comment	Disposition
Alliance for Nuclear Accountability			
Alliance for Nuclear Accountability-1	Susan Gordon	The draft policy and guidance are incomplete. Many key terms, such as "risk," "risk-based end states," and "risk-based principles," have not been defined. DOE should redraft the policy and guidance, including defining key terms and resubmitting them for public comment.	See general response to Recurring Issue/Concern #3.
Alliance for Nuclear Accountability-2	Susan Gordon	In addition, DOE states that it will "develop a corporate strategy to ensure implementation of this policy." It is difficult at best to comment on a new project without all of the pieces on the table. The corporate strategy should be out for comment at the same time as the redrafted documents	DOE understands your request of having "all of the pieces" together for comments. However, as a practical matter, this is neither possible nor necessary. The Corporate Strategy cannot be developed until the overarching Corporate Policy is developed and approved. This will ensure internal consistency between the Department's Policy and the Corporate Strategy
Alliance for Nuclear Accountability-3	Susan Gordon	Public participation is a necessary ingredient in the democratic process. The December 16 memorandum "encouraged" the Field Offices to share the documents with local stakeholders, yet many of the ANA member groups did not received a copy for comment. The ANA network consists of community groups who live and work next to DOE facilities and who will do so into the future. ANA groups must have a seat at the table when important cleanup decisions are being made.	DOE agrees public participation is a necessary component in developing balanced views. The Department has made a concerted effort to distribute the draft policy and draft guidance. Given over 700 comments from more than 50 separate individuals or organizations, we believe we were successful. The Department is committed to public involvement.
Alliance for Nuclear Accountability-4	Susan Gordon	ANA objects to the proposed definition of "risk." It is incomplete and eliminates the risk that exists now. The definition refers only to risk "after remediation is complete." The proposed definition will be very handy for DOE to use in this age of "reducing risk" because DOE will be able to "write off" existing risk. The definition should include present and future risk. Both the draft policy and guidance should clearly state the definition of "risk," and not hide it in other documents.	Terms and definitions are being considered and/or developed. There was no intent to eliminate existing risk as a concern. Existing risks would be reduced by taking active response actions at a site. Residual risks may nonetheless remain at a site which would need to be managed.
Alliance for Nuclear Accountability-5	Susan Gordon	"End state" is defined as beginning "when the remedy is proven to be operating as designed. It does not mean that the final objective of the system is attained and the system is dismantled." Again, the definition is incomplete and provides a loophole for not completing cleanup. There are many examples within the DOE complex where the remedy is not operating, and will never work, as designed.	See general response to Recurring Issue/Concern #3.
Alliance for Nuclear Accountability-6	Susan Gordon	ANA objects to the definition of "end state vision." The definition does not include a public participation requirement for developing the end-state vision.	The term "end-state vision" defines a site description of an anticipated future. It is not intended to describe process of "how" to get to the end states. Discussion of how to achieve the RBES will be discussed in the Corporate Strategy Document.

Alliance for Nuclear Accountability-7	Susan Gordon	In addition, DOE does not define "risk-based end states." Risk-based end states serves as the foundation of the draft policy and guidance. It is unacceptable that this term is not defined. ANA strongly urges DOE to do so, at which time DOE should put the draft policy and guidance and the corporate strategy out for comment again.	See general response to Recurring Issue/Concern #3. The policy/guidance documents will not be issued for comment again.
Alliance for Nuclear Accountability-8	Susan Gordon	DOE should clarify the statements made in the draft policy and guidance that it will comply with the nation's environmental laws and regulators, but that the risk-based end states "will drive" DOE's compliance strategy.	Clarifications will be provided in the final documents.
Alliance for Nuclear Accountability-9	Susan Gordon	DOE states that the purpose of the policy is to "do it right and completely the first time," yet does not define the necessary terms (please see above). In addition, DOE must define "risk-based principles" and provide literature references.	See general response to Recurring Issue/Concern #3.
Alliance for Nuclear Accountability-10	Susan Gordon	ANA objects to the renegotiation or update of regulatory agreements, documents, compliance agreements, and records of decision, unless they are needed to address newly discovered contamination, to plan for increased appropriations for cleanup, or to strengthen or increase cleanup standards. Any changes to the agreements need to be made with public involvement and the required environmental impact studies.	Any needed changes to the documents mentioned will use the appropriate regulatory process.
Alliance for Nuclear Accountability-11	Susan Gordon	DOE created a program, beginning with the Top-to-Bottom Review (February 2002) ("the Review"), which does not provide for an adequate public participation in the decision making process. Documents tiered from the Top-to-Bottom Review include the Letters of Intent and the Performance Management Plans (PMPs). At some sites, such as Paducah, there is no PMP. DOE has attempted to renegotiate its commitments and reorganize site management, which has resulted in a breakdown in cleanup activities at the site. Negotiations are going on behind closed doors with no public involvement.	DOE provided a public briefing on the Top-to-Bottom Review in Paducah on February 27, 2002. In response to the review, an accelerated cleanup plan was developed for Paducah and reviewed in a public meeting on June 18, 2002. Prior to the Top-to-Bottom Review, DOE, Kentucky and EPA were in discussions to resolve a dispute concerning the annual update of the Paducah Site Management Plan. These discussions have continued without resolution and the dispute has been elevated to the EPA administrator for resolution in accordance with protocols established in the Paducah Federal Facilities Agreement. During the dispute period, DOE, Kentucky and EPA reached agreement on several large and important cleanup actions such as the Scrap

Alliance for Nuclear Accountability-12	Susan Gordon	ANA believes that changes to contract management would ensure better cleanup. In fact, the Review stated that DOE would make changes to "significantly improve management of performance-based contracts," yet ANA has not seen any policies or procedures to implement these changes. ANA requests that DOE provide it with copies of documents, policies or guidance making such changes. DOE should not use the I & M contract as a vehicle to shield contractor and subcontractor documents from public access.	DOE has initiated Corporate Projects to address the findings from the Top-to-Bottom Review which includes improving contract management. These corporate projects are currently ongoing and relevant documents will be available when deemed appropriate. DOE disagrees with claims that the contracts are being used to shield documents from the public access. The Department policy regarding contracting is available to
Alliance for Nuclear Accountability-13	Susan Gordon	The draft policy does not specify how stakeholders will participate in formulating the risk-based end state vision, which also must be defined. As stated above, stakeholders and regulators must play an active role in developing cleanup decisions, not merely be consulted after the fact.	The draft policy stated stakeholders will be consulted with in developing the RBES. DOE agrees that an early involvement is encouraged, before decisions are finalized. The details of stakeholder participation in developing site-specific RBES vision is the responsibility
Alliance for Nuclear Accountability-14	Susan Gordon	In order to protect future generations, the relevant receptor should be the subsistence farmer and the subsistence farmer scenario should be the intended land use.	DOE disagrees with your comment that the subsistence farmer is always the appropriate future-use scenario. DOE is unaware of any regulatory requirements that would require use of such scenarios on a generic basis. While it may be that subsistence farmer scenarios are appropriate for certain sites, such determinations must be made case-by-case basis in consultation with regulators
Alliance for Nuclear Accountability-15	Susan Gordon	The guidance is incomplete. DOE should provide the "tools that are currently available to facilitate the definition of risk-based end states for each site" for review by regulators and stakeholders before the guidance is finalized.	DOE agrees that the draft guidance was incomplete in some sections and is reworking the guidance based on the comments received. DOE will continue to seek stakeholder input to the extent possible.
Alliance for Nuclear Accountability-16	Susan Gordon	The comment period for the PMPs was very short. In the case of Los Alamos National Laboratory, stakeholders were provided with a copy on Friday afternoon with comment due on Monday at the close of business. This was unacceptable. For this reason, ANA requests at least a 30-day comment period for the End State Visions.	See response to ANA comment #13.
Alliance for Nuclear Accountability-17	Susan Gordon	DOE should list the factors that will be used in determining whether workers conducting cleanup will be put at risk that will result in "little or no reduction in risk" to the environment or the public.	Remedial worker risk is among the balancing criteria in the NCP's nine remedy selection criteria and is thus well established. DOE believes no additional effort is needed.

Alliance for Nuclear Accountability-18	Susan Gordon	ANA suggests the following guiding principles and end state vision considerations be added to the lists found in the draft document: (1) Select remedies that protect the long-term safety and health of the community and of the environment surrounding the DOE facility. (2) Consider all aspects of establishing, maintaining and funding long-term environmental protection (LTEP) activities during the remedy selection process. The draft policy and guidance fail to heed the core message of the August 2000 report of National Research Council of the National Academy of Sciences, entitled Long-Term Institutional Management of U.S. Department of Energy Legacy Waste Sites. The report states that: "No plan developed today is likely to remain protective for the duration of the hazards. Instead long-term institutional management requires periodic, comprehensive reevaluation of those legacy waste sites still presenting risk to the public and the environment to ensure that they do not fall into neglect and that advantage is taken of new opportunities for	(1) Your comment will be considered (2) See general response to Recurring Issue/Concern #6 for further discussion related to this comment.

Alliance for Nuclear Accountability-18	Susan Gordon	(cont.) (3) Compare the costs of immediate cleanup with those of long-term monitoring through independent cost-benefit analysis. (4) Clean up facilities to a level that allows unrestricted use and avoids the need for LTEP whenever possible. (5) Where full cleanup to unrestricted use is not practical due to current technical constraints, include details of a complete protection plan in remedy decision documents. (6) Aggressively pursue new clean-up technologies for sites where contaminants are slated to remain in place. (7) Fully characterize, document, and disclose the location of all residual contamination. (8) Place complete records of contaminants on file with regional libraries and state archives.	(cont.) (3) DOE agrees cost-benefit analysis should be used where appropriate and will be considered on a case-by-case basis. (4) DOE will comply with CERCLA statute and NCP regulations in this regard. (5) DOE agrees that performance objectives should be documented in the RODs. (6) Role of new technologies will be considered in the final documents. (7) DOE agrees and this is required by the applicable laws and regulations. (8) CERCLA Section 113 (k) requires an administrative record file to support response-action selection. DOE has addressed the issue of information management in some detail in previous long-term stewardship reports, such as Chapter 7 in the "Long-Term Stewardship Study". Since the RBES initiative is not concerned with the details of LTS, there is
Alliance for Nuclear Accountability-18	Susan Gordon	(cont.) (9) Compensate local governments for the costs of emergency response staff, training, protective equipment, and retention of information about the nature of remaining contaminants. (10) Adopt financial assurance mechanisms to ensure adequate funding for long-term environmental protection. (11) Design contingency plans at the time cleanup decisions are made. (12) Develop and implement all programs through effective public involvement.	(cont.) (9) DOE understands the need to partner with local government officials on all DOE processes and activities that impact local communities, as recently confirmed in a statement of principles signed by the Deputy Secretary and the Energy Communities Alliance. Specific roles and responsibilities of local governments for implementing and overseeing LTS activities are only now beginning to be defined explicitly. The need for compensation will be addressed case-by-case as these roles evolve, and will be commensurate with the specific scope of the role. (10) See general response to Recurring Issue/Concern #6. (11) Your comment will be considered in the final documents. (12) DOE believes it has a good
Alliance for Nuclear Accountability-19	Susan Gordon	LTEP activities at each site should include distribution of health information to the public and local public health providers. Materials should include educational fact sheets and databases about possible diseases related to contaminants. In addition a health-monitoring plan should be developed -- with full public participation -- in affected communities. For those sites that have contaminated surrounding neighborhoods, DOE should take responsibility for health care costs for residents, compensation for property values, and conduct remediation on the contaminated property.	This comment is outside the context of the draft policy/guidance documents.

Alliance for Nuclear Accountability-20	Susan Gordon	When land-use restrictions such as fences are part of the remedy, DOE should monitor and maintain the site. If property is ever transferred to another entity, DOE should require monitoring for compliance with the same restrictions. Effective public participation must be included in any process to develop policies and regulations on property transfers.	DOE will comply with all applicable laws and regulations and will carry out its cleanup obligations in accordance with laws and regulations.
Alliance for Nuclear Accountability-21	Susan Gordon	DOE is responsible for a site in perpetuity unless a new owner has altered the property or violated a restriction in a manner that releases contamination. If a subsequent property owner ever becomes insolvent, liability should revert back to DOE.	See response to comment #20.
Alliance for Nuclear Accountability-22	Susan Gordon	Mini-grants should be available for stakeholders and their experts to review and comment on the development of site conceptual model that includes land use consideration, the groundwater and soil compliance strategies, and the compliance strategies.	This comment is outside the context of the draft policy/guidance documents.

Alliance for Nuclear Accountability-23	Susan Gordon	ANA does not believe that "trade-offs" involving institutional or engineering controls, future monitoring, remediation or characterization are a necessary part of defining the end state and designing a remedy. DOE should carry out its responsibility for the huge quantities of contaminated water and soil created by nuclear weapons research, development and testing. Otherwise, many local communities, including those on the 2006 cleanup list, will be forced to cope with the burden of these sites. DOE's negligence threatens the futures of workers, neighbors, and others who live downwind and downstream.	Given the fact that only limited funds are available and, in many cases, cleanup to unrestricted level is technically and economically infeasible, trade-offs are a necessary part of cleanup programs. As stated above, DOE intends to carry out its responsibility in cleaning up the environment in accordance with applicable laws and regulations.
Alliance for Nuclear Accountability-24	Susan Gordon	ANA does not support DOE's statement that DOE be allowed to determine when the end state begins and when the remedy is complete. There are many examples of DOE leaving a mess, such as at Weldon Springs, Missouri. In that case, DOE signed a contract with the state of Missouri providing for long-term maintenance at the Weldon Springs site. After conducting a $900 million cleanup, building a seven-story dirt pyramid capping 1.5 million cubic yards of uranium contaminated waste, and opening an interpretative center, DOE pulled out of the agreement, leaving the state holding the bag. Cleaning the contaminated groundwater will take at least another two years and monitoring will be required essentially forever.	DOE disagrees with the charge that it has left the State of Missouri "holding the bag". In 1993, the state of Missouri was awarded an Agreement in-Principle grant for support of the Federal Facility Agreement at Weldon Spring. This grant has been renewed annually since that time and is currently funded at $244,000. The FY04 budget request for Weldon Spring long term monitoring and maintenance includes funds for continued stakeholder participation. DOE, the Environmental Protection Agency, and the state of Missouri are reviewing the proposed plan for monitored natural attenuation for groundwater. Project funds are available to complete CERCLA obligations through the 1st quarter FY05. It is DOE's commitment to annually request funds for long term monitoring and maintenance
Alliance for Nuclear Accountability-25	Susan Gordon	Furthermore, at the Rocky Flats plant in suburban Denver, DOE is planning to clean up only the top three feet of plutonium-contaminated soil. Contaminated pipes will be left in the ground. Permanent long term monitoring and surveillance is necessary because the cleanup is incomplete. Nevertheless, DOE expects to turn the site over to the U.S. Fish and Wildlife Service to use as a refuge.	The referenced cleanup work at Rocky Flats has been the subject of intense regulatory and public involvement over several years, and is believed to be protective for the intended use. DOE views this as an appropriate outcome of the RBES process.
Alliance for Nuclear Accountability-26	Susan Gordon	ANA believes that more work must be done on the draft policy and guidance, including adequate opportunity for review and comment on the redraft, before it should be approved.	DOE agrees more work is required on the draft documents.
Citizen Action			
Public-(Sandia)-1	Citizen Action	What is the purpose of this document?	See general response to Recurring Issue/Concern # 3.
Public-(Sandia)-2	Citizen Action	Is this new program an addition to DOE's "accelerated clean-up" program or is this a new program name for "accelerated clean up"?	The RBES initiative is a part of the accelerated cleanup program.

Public-(Sandia)-3	Citizen Action	No independent citizen groups in New Mexico received this document nor did DOE-funded citizen groups receive it. We found it by chance through talking to a colleague who "heard" about it.	DOE made a concerted effort to distribute the draft policy and guidance documents. Given comments from over 50 external organizations, we believe we were successful.
Public-(Sandia)-4	Citizen Action	Our request for an extension for comments sent to David Geiser (via numerous phone calls and e-mail) went unanswered.	DOE considered all comments received even after the 1/31/03 deadline. At some point, the comment period must end to allow process to move forward. DOE will continue to seek public participation to the extent possible. Mr. Geiser has returned every phone call and email he received regarding the review/comment
Public-(Sandia)-5	Citizen Action	It is very difficult to take this document seriously because the same information is presented in each chapter with little substance.	Your comment will be considered in developing the final documents.
Public-(Sandia)-6	Citizen Action	It is very difficult, if not impossible, to predict risk as land usage will change in future. Change is inevitable. On paper that which is said to pose no risk today may pose a risk 20 to 30 years from now.	DOE agrees that the risk estimates are only as good as the future-use assumptions, which are used to derive activity patterns and exposure values. DOE risk estimates will be re-visited periodically to factor in new
Public-(Sandia)-7	Citizen Action	There is a lack of national standards for clean up for legacy waste sites. There is no financial commitment made by DOE to guarantee these sites will continue to receive long-term monitoring/surveillance.	See general response to Recurring Issue/Concern # 6.
Public-(Sandia)-8	Citizen Action	In DOE's Radioactive Management Manual (m-435 1.1)(h) it states that after 100 years following closure it should be assumed that institutional controls will no longer be effective. This document fails to mention, note, discuss or consider this fact.	See general response to Recurring Issue/Concern #7.
Public-(Sandia)-9	Citizen Action	Cost is mentioned, but lacking in detail as to how DOE intends to fund the cost related to long-term monitoring/surveillance over the short and long-term. Will these sites be subject to the same budgetary restrictions of DOE's soon to be abandoned EM program or will a dedicated trust fund be created for their care?	See general response to Recurring Issue/Concern #6.
Public-(Sandia)-10	Citizen Action	"Sites must consider the interim risk to the public." Please define what is meant by "interim."	"Interim" risk referred to possible short-term risks created during remedy construction or implementation. Wording will be clarified if still applicable.
Public-(Sandia)-11	Citizen Action	DOE's "in-house" risk assessments generally reflect industry policy instead of sound science as we have seen with the Mixed Waste Landfill at Sandia National Labs, Albuquerque.	DOE disagrees with your comment. In the case of MWL at Sandia, DOE's risk assessments were subject to independent peer reviews, which generally supported
Public-(Sandia)-12	Citizen Action	If DOE is advocating for a "minimization of new waste disposal sites" then at the very least appropriately engineered landfills should be constructed for wastes lying in the raw ground. If this is to be adopted then continued generation of nuclear waste should also stop.	Disposal facilities for new wastes are carefully engineered. However, the same standards can not generally be retrofitted to legacy waste sites. These must undergo corrective actions.
Public-(Sandia)-13	Citizen Action	Terms such as "do it right the first time" serve as no importance except to make the public even more skeptical of DOE's lack of commitment to clean up its waste sites.	Wording will be changed in final policy if still applicable. DOE's intent was to highlight problems with interim actions that are not well aligned with the end-state vision

Comment Response Document

Coalition on West Valley Nuclear Wastes			
Public(WV)-1	Coalition on West Valley Nuclear Wastes	The executive summary of the Draft Guidance Document states that "The Department's [DOE's] intent is to 'do it right the first time.' The Department must correct a cleanup process based on multiple interim steps that lead to un-defined end states..." We agree with this concern. The same concern exists at West Valley. DOE has failed to define an endpoint despite a legal mandate (the West Valley Demonstration Project Act) that creates a general outline for such an endpoint and despite legal requirements that create a process within which the selection of the endpoint must take place. (This latter process is an Environmental Impact Statement [EIS], which is required by the National Environmental Policy Act [NEPA] and by the Stipulation of Compromise Settlement [Stipulation] that DOE signed with us on May 27,1987.) See also the West Valley Citizen Task Force's letter to Jessie Roberson dated August 9, 2002, which expresses a similar concern, albeit in a different context, about the lack of an endpoint at West Valley.	DOE agrees with your comment. DOE believes sites such as WVDP will be greatly benefited by the risk-based end state effort. A clearly defined end state will allow DOE and other involved parties to move forward towards the common end state.
Public(WV)-2	Coalition on West Valley Nuclear Wastes	The Introduction (Section 1.0) of the Draft Guidance Document indicates that "cleanup at a site should be driven by a risk-based end state vision" and that "An end-state vision is the agreed-to vision for land use at the end of cleanup." Given the fact that the cleanup of a given site cannot be governed by two conflicting end-state standards (regardless of whether those standards are called visions or Records of Decision), we ask DOE to clarify the relationship of the proposed end-state vision to the required NEPA process. In the context of a required EIS process, is the term "end-state vision" synonymous with "preferred alternative," i.e., a plan or vision that is favored by various parties but not yet finalized and not yet binding? Or is the term "end-state vision" synonymous with "Record of Decision," i.e., a plan or vision that is finalized and legally binding? We ask that you respond and resolve this ambiguity in the term "end-state vision." By DOE's own definition, it is an "agreed-to"	In the event that an end-state vision were prepared, DOE does not see that it would be "conflicting" with one proposed through the NEPA process. Indeed, the analysis of impacts for the range of alternatives anticipated to be in the DEIS for Decommissioning/LTS would be a rigorous implementation of the concepts espoused in the draft policy/guidance documents.
Public(WV)-3	Coalition on West Valley Nuclear Wastes	Paragraph 3 of the Introduction (Section 1.0) implies that "end-state vision" means a finalized, legally binding agreement on the end state for cleanup: "The end state vision will [allow] the Department, its regulators and stakeholders to make decisions based on an end state for the cleanup." This sounds like the legal equivalent of a Record of Decision. Please let us know whether this matches your interpretation of "end-state vision." If not, please provide a clear explanation in terms that relate to the required EIS process.	The end-state vision would not have the legal standing of a Record of Decision. The end state vision is a description of what the site looks like when the cleanup is completed. If the current cleanup plan is inconsistent with the end state vision, DOE will seek necessary changes and regulatory approval. Site cleanup baselines and PMPs will be updated to reflect new cleanup approach once regulatory approval is obtained.

Public(WV)-4	Coalition on West Valley Nuclear Wastes	Paragraph 2 of Section 3.0 (Schedule Requirements) implies that "end-state vision" means a non-finalized, non-binding agreement regarding the end state for cleanup, more or less equivalent to a Preferred Alternative in NEPA nomenclature. We draw this inference from DOE's statement that end-state visions will "receive endorsement" from regulators and stakeholders rather than undergo the rigorous steps required by NEPA for reaching a Record of Decision. Please let us know whether this interpretation matches your interpretation of "end-state vision." If not, please explain clearly in terms that relate to the required EIS process at West Valley.	While there may be some similarities in concept between a RBES and a preferred alternative under NEPA (especially one that was focused on land-use alternatives), DOE does not agree with the inference for the specific case of West Valley. The preferred alternative under NEPA is just that--the one preferred by the agency. DOE does not expect necessarily that the same rigorous process steps used to derive a NEPA ROD would be used to reach agreement on a risk-based end state. In the specific case of West Valley, DOE will
Public(WV)-5	Coalition on West Valley Nuclear Wastes	The first bulleted point in Section 4.0 (Guiding Principles) seems to suggest a dichotomy between "the nation's environmental laws and regulations" and "the requirement to develop and achieve risk-based end states [that] will drive the Department's compliance strategy." Does DOE view this as a dichotomy? In other words, could DOE's development and achievement of "risk-based end states" occur outside the requirements and processes of the nation's environmental laws and regulations? Please explain clearly in terms that relate to the required West Valley EIS process.	DOE sees no dichotomy. The risk-based end-state initiative is consistent with, and will be developed within, the requirements of the nation's environmental laws and regulations.
Public(WV)-6	Coalition on West Valley Nuclear Wastes	We agree with the second bulleted point in Section 4.0 (Guiding Principles) regarding "an integrated site-wide perspective" and find that this point is consistent with the aims of NEPA. We likewise agree with the sixth bulleted point regarding consultation with stakeholders and regulators.	Thank you.
Public(WV)-7	Coalition on West Valley Nuclear Wastes	The third, fourth, and seventh bulleted points in Section 4.0 (Guiding Principles) may be useful as general guidance, but are superseded at West Valley by NRC's License Termination Rule which, as stated a year ago in NRC's Final Policy Statement, serves as the primary decommissioning criterion for West Valley.	Your comment is noted.
Public(WV)-8	Coalition on West Valley Nuclear Wastes	The fifth bulleted point in Section 4.0 (Guiding Principles), regarding institutional controls, is superseded at West Valley by NRC's License Termination Rule which, as stated in NRC's Final Policy Statement, serves as the primary decommissioning criterion for West Valley.	Your comment is noted.
Public(WV)-9	Coalition on West Valley Nuclear Wastes	The above comments (nos. 5-8) are likewise applicable to the bulleted points in the Policy section of the Draft DOE Policy XXX.X.	DOE agrees.

Public(WV)-10	Coalition on West Valley Nuclear Wastes	In the End State Vision Considerations (Section 6.0) of the Draft Guidance Document, we agree with the first consideration ("Life-cycle cost must be considered"), especially with regard to the relatively major erosion-control measures that will be required over thousands of years to maintain site integrity at West Valley.	Thank you.
Public(WV)-11	Coalition on West Valley Nuclear Wastes	In the End State Vision Considerations (Section 6.0) of the Draft Guidance Document, the intent of the sixth consideration is unclear. We agree that some party must exercise its authority to articulate when the end state begins and when the remedy is complete. However, at West Valley that authority has been assigned to NRC by the West Valley Demonstration Project Act, which states that decommissioning by DOE shall be in accordance with "such requirements as the Commission may prescribe." We agree that DOE and likewise all West Valley stakeholders must have the benefit of NRC's clear articulation of these requirements. Will such articulation of requirements by NRC be sufficient for DOE to articulate when the end state begins and when the remedy is complete?	There were many comments on this consideration and DOE will clarify its intent.
Public(WV)-12	Coalition on West Valley Nuclear Wastes	In the End State Vision Considerations (Section 6.0) of the Draft Guidance Document, the seventh consideration recommends decision analysis and logic tools that are relevant and appropriate. We agree, and we specifically recommend that Probabilistic Risk Assessment be used as a decision analysis and logic tool at West Valley. This recommendation is based on the complexity of the West Valley site and the multiple (competing) modes of failure that threaten various waste management areas at West Valley. None of the competing modes of failure has 100% probability of occurrence, yet their dose consequences can vary widely. Under these circumstances, it is not appropriate to pick one competing mode of failure and ignore the others. Probabilistic risk assessment offers a more relevant and appropriate approach and should be used at West Valley and other complex sites.	The referenced consideration allows flexibility in the choice of analysis tools for a specific site.
Public(WV)-13	Coalition on West Valley Nuclear Wastes	In general, the development of end-state visions cannot replace the required West Valley EIS process and must not divert staff resources needed for completion of this EIS. This EIS is already long overdue and must be completed in a timely fashion in accordance with NEPA and the Stipulation. Decisions about site closure and end states must ultimately be supported by this EIS process. Development of end-state visions may be useful within the context of the West Valley EIS but is not an "end" unto itself and must not become a major distraction that obstructs completion of the EIS.	DOE agrees.
Committee to Minimize Toxic Waste			

Committee to Minimize Toxic Waste-1	Pamela Sihvola	The City of Berkeley and its citizens will not accept risk based cleanup, which would allow most of the federally generated contamination to remain in place and contaminate Berkeley's groundwaters. For example, as a result of gross mismanagement by the University of California (UC), Department of Energy (DOE) and the Lawrence Berkeley National Laboratory (LBNL), the LBNL site, once a beautiful, pristine watershed is now a cesspool of chemical and radioactive contamination. The only option for Lawrence Berkeley National Laboratory is complete removal of all contaminants, consideration of risk based "cleanup" is not an option. We ask that the Site Restoration Program be fully funded and we ask for the immediate removal of the still remaining tritium stack and the highly contaminated exhaust system, which continue to outgas tritium into the environment next to the Lawrence Hall of Science, a children's school and museum.	Due to technical and economical constraints, removal of all contaminants are neither possible nor feasible at many of DOE sites. DOE believes the cleanup should be based on intended end use of the site which will provide appropriate protection for that intended use.
Committee to Minimize Toxic Waste-2	Pamela Sihvola	The appalling environmental legacy of the DOE operations is documented in the enclosed Contamination Chronicle of LBNL, which we hope will guide you to abandon risk based cleanup and instead do the right thing: Clean up the site by removing all contaminants: The total lack of environmental stewardship must end!	See response to your comment above. Also, see general response to Recurring Issue/Concern #8 for further discussion related to this comment.
Energy Communities Alliance			
ECA-1	Energy Communities Alliance	Background-Decisions Impact Local Communities: ECA's members look at DOE cleanup decisions as impacting the future of their communities. Local governments are interested in environmental cleanup in and around their communities because the sites are located in their communities, and they have a fundamental duty to provide for the health, safety, environment, quality of life, and economic future of their citizens. DOE has told local governments over the years that at more than 100 DOE sites, a significant amount of environmental contamination will remain in place when the "cleanup" is complete because the sites will be remediated to risk-based levels. ECA understands that some of the sites will be cleaned up to a level based on the risk to humans and the environment assuming the site is used in specific ways that limit human exposure to the hazards left in place, while other sites may become storage sites for environmental contamination, either because of the complexity of the contamination or	Your comment is noted. We interpret your comment as a general acknowledgement statement on support for DOE, local governments, and other stakeholders for development of end state visions.

ECA-2	Energy Communities Alliance	Learn from the Success Stories-Selection of End State Must Include the Impacted Local Government: Although the draft Guidance is silent on what DOE and communities have done to date to develop the "end-state" of the sites, it is a key ingredient to making risk-based cleanup work. DOE has worked closely with several local governments, states, community members, and EPA to define a site's end-state vision and gear cleanups to meet community interest. There is no greater challenge for a community facing the cleanup and closure of all or part of a DOE facility than to identify its interests and goals, and ensure that final cleanup standards enable such interests to be met. Such a process, if properly done, will also serve to identify the role(s) of parties post-closure to manage elements of long-term stewardship.	DOE agrees with the comment. Consistent with established DOE policy, DOE will continue timely, open, and meaningful dialogue with local governments in developing end state visions and other activities which impact local communities.
ECA-3	Energy Communities Alliance	Success seems to be in the grasp of at least two DOE sites-Mound and Rocky Flats. ECA's members at those sites worked in partnership with DOE, state regulators, EPA and local citizens. The road has not been easy, but all parties involved have arrived at the current state by clearly defining the future use of the sites.	DOE agrees with your comment, and also believe the partnerships at those sites can serve as a model for other DOE sites.
ECA-4	Energy Communities Alliance	At Rocky, Mound, and other sites this alignment of community interests, DOE regulator interests, and prioritization of remedial alternatives and goals has been an essential element in the community and DOE reaching agreement in the details of a risk-based cleanup. It seems appropriate that once again Assistant Secretary Roberson and her staff are using lessons learned from these sites to improve the decision making process at other sites.	DOE agrees with this comment, and acknowledge the important contributions local governments have made in helping to achieve accelerated risk reduction and cleanup.
ECA-5	Energy Communities Alliance	ECA is concerned that the draft Guidance seems to relegate "communities" to a limited "consultative" role in developing the end-state vision, as the ultimate decision would rest with DOE. To the extent that the local government and citizens have developed their common vision for the future use of the site-DOE uses the term "intended land use"-then the process as outlined for a risk-based end state to enable such a vision could work, provided ECA's second concern is addressed. The end state at Rocky Flats and Mound was defined through dialogue between the local governments, citizens, the state and DOE-not by asking the DOE site personnel to define an end state. Support for the cleanup has been garnered by having the local governments and citizens working with DOE to develop the path forward and to negotiate agreements. We hope the successes can be built upon at all sites and used as a blueprint by DOE when finalizing its Draft Guidance.	DOE is committed to working with stakeholders in a meaningful way and this risk-based end state project is no different. DOE believes involvement of stakeholders and communities are critical in determining the commend end state vision for the site. Also see general response to Recurring Issue/Concern #10 for further discussion related to this comment.

ECA-5	Energy Communities Alliance	(cont.) At sites where the "local community" has not formulated an intended land use, the Draft Guidance suggests that DOE, by developing the risk-based end state and then presenting it to the "local community," will de facto decide the future use of the site. If ECA's understanding of the process is correct, DOE's approach then appears fundamentally flawed and would be contrary to DOE's model cleanup sites and ECA policies.	
ECA-6	Energy Communities Alliance	Assuming a future use vision exists or can be quickly developed, DOE is allowing virtually no time to develop a risk-based end state that meets the community's future use vision. At Rocky Flats and Mound the intended land use (national wildlife refuge and industrial facility, respectively) provides a key marker for developing a risk based cleanup; however there are other key technical and policy factors (protecting water quality, focusing on existing contaminant pathways first) that are equally integral to the development of a risk-based cleanup strategy. In fact, the latter factors can take a longer time to resolve. DOE must therefore ensure that the Draft Guidance remains aggressive and allows for sufficient time to address what my experience has shown to be an extremely complex issue. As noted in the Draft Guidance, success has come about where DOE can harness local government support.	DOE received multiple comments, like ECA's, voicing concern that the schedule presented in the draft Guidance was too aggressive to allow for effective dialogue with stakeholders. Also see general response to Recurring Issue/Concern #5 for further discussion related to this comment.
ECA-7	Energy Communities Alliance	DOE Cannot Safely Leave Contaminants in Place Until It Creates a Credible LTS Plan at Each Site: The Draft Guidance generally identifies that DOE will use "institutional controls" and it includes a short paragraph: "long-term monitoring and surveillance methods must be designed..." ECA, National Academy of Science, National Governors Association, Environmental Law Institute, DOE's Environmental Management Advisory Board, and countless others have clearly identified that DOE cannot currently ensure protection of human health and the environment where it conducts risk-based cleanup. The solution that DOE and all of the above mentioned groups have relied upon is the development of credible LTS plans. Long-term stewardship must be part of the discussion of risk-based cleanup and DOE must create a clear, coherent and reliable LTS process.	See Recurring Issues/Concerns #6 and #9.

ECA-7	Energy Communities Alliance	(cont.) Currently, DOE has not clearly defined for communities how it can ensure that LTS will work at its sites. DOE does not have a grasp of the specific tools to implement LTS, the parties (institutions) that will be responsible for implementing LTS, the cost of implementing LTS among other items that are necessary for successful risk-based cleanup, or the idea that DOE will continually analyze new technologies to remediate areas that it cannot currently remediate. The Draft Guidance does not address how DOE will integrate LTS into this risk-based cleanup process. DOE must address how it will integrate LTS into risk-based cleanups in the Draft Guidance beyond mentioning that it will rely on LTS "...to assure that the contaminants remain sequestered and human health and the environment are protected."	
ECA-8	Energy Communities Alliance	ECA understands that DOE plans to move forward with a LTS program. ECA supports the creation of a LTS program, but ECA wants to ensure that the LTS program is integrated with the remedy selection program (the Draft Guidance). Otherwise, DOE will continue to develop remedies without the understanding of whether LTS can be implemented at the site in a manner that will actually protect human health and the environment over the long term.	We received related comments from other external reviewers, and a general response is provided in Recurring Issue/Concern #6.
ECA-9	Energy Communities Alliance	Local Government Involvement Must Be Clearly Stated: The Draft Guidance does not clearly identify a formal role for the "host" local government to participate in any meaningful way. Please use the examples of Rocky Flats and Mound as examples in how to move forward on involving local governments in the process to assist DOE and the local community to benefit through collaboration.	This comment is responded to in ECA-2, ECA-3, ECA-4, ECA-5 and in general response to Recurring Issue/Concern #10.
ECA-10	Energy Communities Alliance	As ECA has stated, local governments are charged with specific legal mandates under state and federal laws, and serve as stewards of public resources such as land and revenue, including land use planning and control. Local governments represent the elected representative of the entire community, and are the "asset holder" with the primary state in DOE site decisions. Local governments are not just stakeholders. Local governments represent the first line of communication with affected citizens, not the local citizens advisory board and not national activists. Public participation should play an important role in DOE decision making, but public meetings and advisory boards are not a substitute for direct communication and interaction with affected local governments. Several DOE site personnel still believe that talking to an advisory board is sufficient public outreach and input; hence the Draft Guidance should clarify that the site is required to work directly with the local governments. Each site manager ought to be required to give a	See comment and response to ECA-5 and related discussion in Recurring Issue/Concern #10.

ECA-11	Energy Communities Alliance	Timing: ECA is skeptical that the things that ECA believes are important to be accomplished to implement this Draft Guidance can occur at all sites within the time frame specified in the Draft Guidance. Developing end states involving the local government, the state, citizens and others in a community takes longer than outlined in the Draft Guidance.	DOE received multiple comments from stakeholders voicing concern that the schedule was too aggressive, and a general response is provided in Recurring Issue/Concern #5.
ECA-12	Energy Communities Alliance	In the past, DOE headquarters has asked its sites to develop land use plans with the "local community" in short time frames. In those cases the sites developed the plans and provided the plans to the "local community" to comment on, but the sites ended up submitting final plans that were not supported by the local community. Some sites may require additional time in order to properly complete the task requested.	DOE received multiple comments from stakeholders voicing concern that the schedule was too aggressive, and a general response is provided in Recurring Issue/Concern #5.
ECA-13	Energy Communities Alliance	Cleaning up the contaminated DOE sites in local communities is a top priority for ECA. The cost of cleanup always seems to be the focus of DOE while the level of cleanup seems to be the focus of the local communities. The actual cost of "cleanup" to DOE must also include the cost of "managing the site," "long-term stewardship" and other "post-cleanup costs." Most DOE host communities have been told that specific sites have been completely cleaned up to risk-based levels only to learn several years later that DOE was incorrect and the site needed to be cleaned up repeatedly. These so-called "cleanups" do not save time or money, except for that year's DOE budget. DOE should conduct an analysis of what is the difference in cost of incremental levels of cleanup at a site, including the cost of cleanup that does leave contaminants above state and federal action levels in place. Further, the Department would be doing a disservice if it only looked at costs as "EM" costs, or "DOE" costs. The costs must be identified as the cost to federal, state,	DOE agrees that the incremental costs of cleaning up to less restricted levels should be considered on an exception basis.
ECA-14	Energy Communities Alliance	The cost to the local government can be great when DOE either fails in its cleanup to risk-based levels or continually has contamination problems in a community. DOE, the regulators, and the local governments need to acknowledge that there is an "economic risk" that communities bear for anything less than complete cleanup. Economic risk needs to be identified as a risk in the Draft Guidance. The economic risk is caused by the real or perceived risk to human health and the environment present at DOE sites. DOE has told ECA in the past that it cannot deal with such an issue, but decision makers should consider it when end states are determined.	Your comment is well taken. For the purpose of this effort, DOE does not define "risk" to include "economic risk" and, therefore, the final guidance will not identify "economic risk" as a risk factor. Even if such a broad definition were adopted, DOE would have trouble justifying the setting-aside of funds for "perceived risk."

ECA-15	Energy Communities Alliance	For example, the new CERCLA waste disposal cell at Oak Ridge site is a good example where, in the end, it may be less expensive if DOE would have shipped the contamination off-site. The cell, according to those familiar with the site, is leaking. Now, millions of dollars (that were going to be saved) may now need to be invested at the site.	The CERCLA waste disposal cell at Oak Ridge is operating in accordance with all applicable laws and regulations. The cell is not "leaking."
ECA-16	Energy Communities Alliance	DOE argues in this Draft Guidance that current Federal Facility Agreements ("FFAs") compliance will not promote cleanup at the sites. At the time these FFAs were signed, DOE, EPA and the states told the citizens around these ties and Congress that the FFAs would promote cleanup. ECA believes that FFAs are binding contracts between the parties that signed these agreements. ECA does not support the amendment of FFAs where the sole purpose is based upon DOE not meeting previously agreed upon milestones. ECA understands that all long-term agreements must be reviewed and where all of the parties agree on amendments to create efficiencies, these agreements should be amended.	DOE agrees that any proposed changes to the FFAs need to be carefully considered amongst the parties to ensure efficiencies would be realized.
ECA-16	Energy Communities Alliance	(cont.) The Draft Guidance states "the regulatory agreements...were generally established prior to an adequate understanding of the nature of the risks and hazards at the site." The risks at many sites still are not properly characterized or known. Further, the reason that many of these sites have not been fully characterized is because DOE is remediating many of these sites as "removal" actions rather than "remedial" actions under CERCLA to circumvent what has been characterized as "too many studies."	
ECA-16	Energy Communities Alliance	(cont.) ECA supports reviews if FFAs to created efficiencies. Unilateral changes to FFAs do not necessarily create efficiencies. ECA is concerned that if the FFAs are amended without the agreement of all parties, the decisions could lead to litigation and hence the slowing of the cleanup process. The goals of the DOE, EPA and the site are the same-cleaning up the site quickly and efficiency. Hence, ECA suggests that DOE work carefully with the regulators to ensure that all parties understand and agree on the best path forward for cleanup of the DOE sites.	
ECA-17	Energy Communities Alliance	General Comments: ECA did not develop specific comments for each section. However, ECA would ask that DOE please create a "definitions" section to ensure the consistency of words throughout the documents. For example, "steady state" and "end state"; "relevant" pathway and "irrelevant" pathway; "completion" and "exit strategy."	Terms and definitions are being considered and/or developed. Your comment will be considered. Also see general response to Recurring Issue/Concern #3 for further discussion related to this comment.

ECA-18	Energy Communities Alliance	To best protect local government interests and bring greater equality and partnership to the process, ECA supports the addition of provisions that would: (1) ensure that the work of the communities that have developed end states and that are far along in the process will not have to repeat the process; (2) ensure the role of local governments is stated clearly throughout the document and strengthened to require the site managers to work directly with the local governments; (3) clarify that the local government, not DOE, is charged with developing a future use vision, and, specifically increase the importance of the risk-based end state meeting the community's future use vision and not vice versa;	(1) See Recurring Issue/Concern #5. (2) Please see DOE's response to ECA-2, ECA-5, and Recurring Issue/Concern #10. (3) DOE believes the development of the RBES vision requires involvement of many including, but not limited to, local communities and DOE. DOE also believes the end state vision should be consistent with intended end use of the site and the surrounding communities.
ECA-18	Energy Communities Alliance	(cont.) (4) identify actually costs to federal, state, tribal and local governments; (5) ensure LTS is part of the decision making and that DOE actually has a LTS process that is clear and can be implemented; (6) develop realistic timing for implementing the Draft Guidance; and (7) prioritize Draft Guidance Section 6.0, "End State Vision Considerations," to meet the goals stated in this letter.	(4) See response to comment ECA-13 and ECA-14. (5) See response to ECA-7 and ECA-8, and Recurring Issue Concern #6. (6) See response to ECA-11, ECA-12, and Recurring Comment #5. (7) The list of considerations in the draft Guidance was not in order of priority. We realize that some considerations may have more weight than others and your suggestion will be considered in the final document.
ECA-19	Energy Communities Alliance	ECA continues to support DOE's efforts to ensure that cleanup occurs quickly. However, DOE must ensure that it utilizes its successes as models and works with the local governments adjacent to the DOE sites to develop solutions to these complex problems. Health and environmental risks are key issues for citizens who live adjacent to these sites. DOE must ensure that when it relies upon risk-based cleanup DOE can guarantee the community's health and safety.	DOE appreciates ECA's support, and agree with the comment. DOE fully understands health and environmental concerns by the citizens who live adjacent to these sites. DOE believes RBES approach will provide appropriate protection to citizens who live adjacent to DOE sites based on the intended end use of the site.

English, Ruby			
Public-(Paducah)-1	Ruby English	My vision for a risk-based end state is very simple. Make every effort to totally clean up the site to the very best of your ability so that the neighbors, workers and the community will be able to live in a clean and healthy environment.	Your comment is well taken. The goal of the RBES vision effort is to ensure that sites are cleaned up to the appropriate level, ensuring protection of human health and the environment. Please see the response to Recurring Issue/Concern #3 for further discussion related
Public-(Paducah)-2	Ruby English	What is your definition of a cleanup driven by risk-based end states vision?	Please see the response to Recurring Issue/Concern #3.
Public-(Paducah)-3	Ruby English	The Risk-based end state vision should include monitoring of the landfill and surrounding contaminated areas as long as there is the possibility of exposure to the environment and the surrounding community. This should be continued by the state regulators. Where there are risks to neighbors and workers should be monitored very carefully.	DOE agrees that when hazards remain at a site, long-term surveillance and monitoring may be necessary.
Public-(Paducah)-4	Ruby English	I would like to know about the land use that has been evaluated for cleanups. What cost has been estimated? Since monies have been wasted on cleanup to date, what is the amount projected for this project?	Your comment is out of scope for this effort.
Public-(Paducah)-5	Ruby English	When I read your end state vision considerations I think you have some good ideas, but then I remember all of the money that has been spent toward these very items you are talking about. Where has all the money gone to clean up this quagmire that has been created by Department of Energy and its contractors over the years? Now you are talking about being cost effective after millions of dollars has been spent to clean this up and it still has not made much of a headway. Where did the money go that was appropriated?	Your observation is consistent with the findings in the Top-to-Bottom Review. DOE believes, relative to the funds it spent in cleanup program, there has been little real risk reductions. DOE believes it must do a better job in reducing real risks and the RBES effort is one of the initiatives that support this by clearly defining the end states.
Public-(Paducah)-6	Ruby English	What is your vision for the C-746-U landfill? I see the vision as more waste whether it will be hazardous or non hazardous being put in this landfill. Then this C-746-U landfill will continue to expand until it completely uses up the 50 acres or so with waste generated from this facility as the permit was requested for. Since there are already two cells with hazardous waste buried, in violation of the permit of this landfill, how will you assure me that only waste permitted for this landfill will be	DOE's vision of any remaining contaminants in a site (including landfills) will be developed within the context of overall end state vision for the site.
Public-(Paducah)-7	Ruby English	I want to continue to see that the State of Kentucky monitors the contamination of this facility and that I as a neighbor of this facility be allowed to voice my comments and opinions as to projects being implemented from time to time through public notices.	Please see the response to Recurring Issue/Concern #10 for further discussion related to this comment.
Public-(Paducah)-8	Ruby English	When the Federal Facilities Agreement was written was the public side represented and by who?	Your comment is out of scope for this effort.

Public-(Paducah)-9	Ruby English	Why would the regulatory agreements have to be renegotiated if the original agreements were followed thru from the beginning? With all of the new testing equipment and other projects tested over the last few years it seems that most of this facility would have been cleaned up by now. How much money was actually spent on cleanup to date and where was it spent?	Resolution of issues will have to be pursued if the RBES vision does not align with the existing agreements. The site-specific comment on the amount of funds spent was addressed in Paducah-4 on previous page.
U.S. Environmental Protection Agency-Federal Facilities Restoration and Reuse Office			
EPA/FFRRO-1	Marianne Horinko	EPA is concerned that the draft policy elevates the role of risk above all other factors considered in developing an end state vision for a site, which in turn influences remedy selection. The final end state policy needs to sufficiently recognize the complex interplay between Federal, state and tribal laws, regulations, standards, etc. and existing cleanup and compliance agreements along with their related ongoing work. Overlay thus setting with a myriad of social, cultural, technological, economic, local and other factors unique to each site. This is the context for remedy selection and determining a site's end state vision. Yet, the impression one gets from reading the draft policy and guidance is that human health risk will be elevated to higher role than other factors.	DOE recognizes the complex, multi-objective nature of end state planning and remedy selection. DOE's effort will be consistent with the CERCLA statute and NCP insofar as recognizing the critical importance of risk amongst the other factors mentioned.
EPA/FFRRO-2	Marianne Horinko	Where the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) apply, for example, there are nine criteria to be addressed when making a remedy selection, including risk. DOE's policy and guidance should be revised to recognize that in establishing the future vision of a site, risk, while a critical factor, has to be balanced against several others. The Federal Facilities Environmental Restoration Dialogue Committee (FFERDC) makes this very clear in its discussion of "risk plus other factors" in its 1996 report.	DOE agrees and clarify the text if still applicable.
EPA/FFRRO-3	Marianne Horinko	Just as EPA is focused in putting remedies in place at Superfund and Resource Conservation and Recovery Act (RCRA) sites, EPA knows that DOE is likewise focused on the same objective. While there are some Superfund and RCRA sites that will require long-term management, a larger percentage of sites in the DOE Complex will leave waste in place requiring long term management. Given the nature of the contamination being left in place, EPA realizes that DOE faces far greater challenges than other federal agencies. The ability to manage this waste and conduct associated activities is key to determine a site's end state. Yet, the draft policy and guidance barely recognize this ongoing and future responsibility.	See general response to Recurring Issue/Concern #6.

EPA/FFRRO-4	Marianne Horinko	Most recently, the Idaho National Engineering and Environmental Laboratory (INEEL) along with an interdisciplinary team from industry, academia, federal and state regulators (including EPA), other federal agency partners, DOE national labs and DOE site contractors developed a "Long Term Stewardship Science and Technology Roadmap". It delineated immediate needs related to four functional areas (containment systems, monitoring activities, communication and management of the remedy) necessary for maintaining the integrity of the remedies that DOE is currently putting in place or that will be needed for future remedies. EPA urges DOE to consider this work, recognizing that the ability to contain, monitor, communicate and manage waste left in place is integral to any end state vision developed for a site.	DOE agrees that the relationship among end-state visions, LTS, and technology was not well communicated in the draft documents. Also see general response to Recurring Issue/Concern #9.
EPA/FFRRO-5	Marianne Horinko	Finally, EPA has concerns as to how the draft policy characterizes past efforts. EPA, the states, state associations (e.g., NGA, NAAG, ASTSWMO), local governments, tribes, public stakeholders from around the sites, DOE Contractors and DOE staff have worked in good faith over the past decade to improve the Environmental Management cleanup program. For example, the renegotiation of the original Rocky Flats Agreement leading to the acceleration of cleanup to 2006 is such an action that took the efforts of many dedicated individuals. Around the complex, the combined efforts have resulted in cleanups moving forward and response cost being reduced.	DOE agrees. See general response to Recurring Issue/Concern #1.
EPA/FFRRO-5	Marianne Horinko	(cont.) The "Paths to Closure" effort resulted in work at other sites moving cleanup forward to 2006 (e.g., Mound and Fernald). Significant progress has been made, but certainly not as much as all parties desired. Yet to read the draft policy, as well as the Top to Bottom Review, one is left with the impression that all the efforts have resulted in virtually no cleanup progress. EPA does not believe that DOE wants to characterize past cleanup efforts negatively. In order for DOE's efforts to have a greater change of success, EPA urges you to revise these sections of the policy and guidance that reference previous efforts.	

EPA/FFRRO-6	Marianne Horinko	Definition of Risk-based End States Vision: The policy and the guidance do not clearly define what is meant by "risk-based". There are several types of risks, e.g., cost, safety, contract, project and environmental risk. The Environmental Management Advisory Board (EMAB) did extensive work in the past on examining risks and we encourage DOE to look at the results of those efforts. The EPA representative to the EMAB was part of those sub-committees. In the draft policy, DOE appears to define the term risk to mean human health and the environment after the remediation is complete. DOE should clearly define what it means by "risk-based". (DOE should also explicitly recognize that in making a remedy selection under CERCLA, the National Contingency Plan (NCP) specifically outlines the nine criteria for selecting a remedy.)	DOE intends to focus on human health and environmental risks, and not on the other types of "risks" mentioned. Also, see general response to Recurring Issue/Concern #3.
EPA/FFRRO-7	Marianne Horinko	Applicability to Sites: The policy suggests that the approach to developing an end state vision "apply to all sites currently undergoing cleanup". For sites that are very close to closure, how does the end state vision policy influence those sites?	See general response to Recurring Issue/Concern #5.
EPA/FFRRO-8	Marianne Horinko	Interim Milestones: The policy stresses the importance of focusing "the program on goals that are clearly articulated and technically defensible and achievable", but then suggests that interim milestones are barriers to achieving the desired end-states. Given the complex and long-term nature of many of DOE's cleanups, EPA believes that interim milestones are necessary tools to ensure that cleanups remain on track toward completion.	See general response to Recurring Issue/Concern #1.
EPA/FFRRO-9	Marianne Horinko	Program History: EPA disagrees with DOE's statement that the DOE cleanup program has achieved little real risk reduction. There are several site examples where risk reduction has been achieved through meeting specific milestones specified in the compliance agreements. Also, the Agency disagrees with DOE that cleanup decisions did not adequately consider the future use of the facilities.	See general response to Recurring Issue/Concern #1.
EPA/FFRRO-10	Marianne Horinko	Risk Based End States and Compliance Strategy: EPA is concerned with the DOE's statement that "the requirement to develop and achieve risk based end states will drive the Department's compliance strategy". The compliance agreements are enforceable, negotiated agreements and are guided by federal and state statutes and regulations with input from DOE public stakeholders. As stated above, there are many other factors that will drive compliance strategy and milestones. EPA would encourage DOE to review the recommendations by the FFERDC, in respect to negotiated cleanup agreements. EPA believes that this policy should reflect the Committee's recommendations.	DOE will review the FFERDC's recommendations regarding negotiated compliance agreements. Also see general response to Recurring Issue/Concern #1 for further discussion related to this comment.

EPA/FFRRO-11	Marianne Horinko	Site-wide Perspectives: EPA does agree that the end states vision should be based on an integrated site-wide perspective.	Thank you.
EPA/FFRRO-12	Marianne Horinko	Remedies: The policy implies that a containment approach to contamination is the preference as opposed to treatment of the principle threat. The policy suggests that an emphasis on institutional controls, Applicable or Relevant and Appropriate Requirements (ARAR) waivers, and long-term monitoring are preferred. Such an approach may be interpreted to be inconsistent with the CERCLA statutory preference for achieving permanent remedies and the protection of human health and the environment through treatment and the elimination of the source of contamination. As such, questions are likely to arise under CERCLA 120(a)(1) and 120 (a)(2) that state each department is subject to CERCLA the same as any non-governmental entity and prohibit any federal department or agency from adopting "guidelines, rules, regulations, or criteria" that are inconsistent with ones established by EPA.	See general responses to Recurring Issues/Concerns #4 and #8.
EPA/FFRRO-13	Marianne Horinko	Relationship of Letter of Intent (LOI) to the Risk Based End State: During the Top-to-Bottom Review, sites were required to submit LOIs and the Performance Management Plans (PMP). It is unclear how the end-state visions will be incorporated into these documents and other Environmental Management accelerated cleanup projects. EPA would encourage DOE to clarify the goals of these documents and how the information generated from each corporate policy will be used to develop a comprehensive cleanup vision for each site.	The site baselines and PMPs will be updated as necessary to reflect the end-state vision document once approval from regulators are obtained re. site-specific risk-based end state vision document. Specific details will be outlined in the Corporate Strategy document which will describe DOE's implementation path forward. The Corporate Strategy document will be developed once the policy is approved.
EPA/FFRRO-14	Marianne Horinko	Contingency Plans: In the policy statement, DOE proposes that the end state vision include the creation of a contingency plan in the event that conditions change after cleanup is complete. DOE should clearly define how contingency plans relate to the CERCLA statutory requirement for conducting five-year reviews. If this is a separate document, will the document contain a monitoring plan and a plan for the implementation of the institutional controls.	DOE clearly acknowledges the five-year review process in the final policy/guidance. DOE will consider whether a separate document is necessary; it may be that such plans can be integrated into the five-year review documents. The intent was to emphasize DOE's commitment to provide for robust LTS plans in the event unrestricted use cannot be achieved.
EPA/FFRRO-15	Marianne Horinko	Long-Term Stewardship: The role of long-term stewardship in the end-state vision is unclear and should be clearly articulated.	See general response to Recurring Issue/Concern #6.
EPA/FFRRO-16	Marianne Horinko	Schedule Requirements: The schedule requirements outlined in the guidance suggest that the regulators and stakeholders need to endorse the End State Visions by September 1, 2003. EPA is concerned that this may not be enough time for the regulators and stakeholders to review, comment and negotiate with DOE on the site end state visions.	See general response to Recurring Issue/Concern #5.

EPA/FFRRO-17	Marianne Horinko	Regulators and Stakeholders Endorsement of the End State Visions: DOE should define its expectations on the endorsement of the end state visions. DOE should clearly state whether it expects concurrence from the regulators regarding changes to compliance agreements. If this is DOE's expectation, EPA would like to discuss in future meetings.	DOE expects there will be cases where we will request changes to existing compliance agreements, once the risk-based end state vision document are developed. DOE intends to seek regulatory approval once such changes are identified.
EPA/FFRRO-18	Marianne Horinko	Point of Compliance: EPA generally agrees with the guiding principles outlined in the guidance document with a few exceptions. However, the guidance is not clear in the principles where the point of compliance is expected to be for each site. DOE needs to clearly state this is the current guidance for determining the point of compliance for a site is expected to be changed as a result of this guidance.	DOE does not anticipate specifying points of compliance in the guidance document. Rather, these decisions will need to be considered on a site-specific basis.
EPA/FFRRO-19	Marianne Horinko	End State Vision verses Legal Requirements: Under the "End State Vision Considerations", DOE clearly states that "regulatory strategy must allow DOE to articulate when the end state begins and when the remedy is complete". This consideration does not appear to take into account EPA CERCLA oversight authority at Superfund National Priorities List (NPL) sites, or EPA and state oversight authorities under RCRA.	DOE will revise this section to acknowledge that it does not have unilateral authority on such matters.
U.S. Environmental Protection Agency-(Mark Mercer)			
EPA/Mercer-1	Mark Mercer	The two documents are well thought out and offer a useful approach to help make the remedial programs more effective and better. “Clearly defined, risk based end states” can help focus attention on the most pressing problems and can provide decision making protocols that minimize inappropriate responses and foster desirable remedial responses. This effort should “improve the effectiveness of ... cleanup program(s).” It offers a vast improvement over concentration based cleanup standard approach.	Thank you.
EPA/Mercer-2	Mark Mercer	There are two camps in the States, Regions, and Headquarters of the Environmental Protection Community. One camp likes concentration based standards, the other likes risk based completion criteria. Having been the principle author of the RBCA construct, I clearly favor the RBCA approach. Do not take this comment to represent all opinions at the Agency. This is clearly a pro-RBCA comment. Other commenters will clearly offer discussion favoring their concentration based standard position. Your Policy and Guidance will serve a useful purpose, regardless of the outcome, if it initiates open discussion on this important topic. Although it is clearly important for DOE sites, it is also of the highest importance to the Army, Navy, Air Force, and American	Prior to presenting the comment shown in the left-hand column, Mercer discusses in considerable detail (about 5 pages, not shown) the history and relative advantages and disadvantages of a concentration-based ground water standard versus a risk-based decision-making approach. DOE finds considerable merit in the Mercer arguments for a risk-based approach; however, they are not clearly directed at the draft DOE documents and so DOE does not offer a specific response. DOE is pleased that the draft documents may help advance discussion on this topic.
U.S. Environmental Protection Agency-Office of Air and Radiation			

EPA/OAR-1	Center for Radiation Site Cleanup	It would be helpful for the Policy document to include a discussion of the relationship between the development of an end state vision and the process provided for in the National Environmental Policy Act (NEPA).	See general response to Recurring Issue/Concern #4.
EPA/OAR-2	Center for Radiation Site Cleanup	Page 1, Introduction, 2nd paragraph, 3rd sentence: Include property owned by state and/or local government along with property owned by the federal government.	DOE will consider the proposed edit.
EPA/OAR-3	Center for Radiation Site Cleanup	Page 1, Introduction, 3rd paragraph: Add the word "allow" after will in the first sentence. In the second and third sentences, consider replacing "site" with "DOE and the stakeholders."	DOE will consider the proposed edit.
EPA/OAR-4	Center for Radiation Site Cleanup	Page 1, Introduction, 4th paragraph, last sentence: Change "the expected land use" to "the intended or expected land uses," since DOE recognizes that there may be more than one land use for the property,	DOE will consider the proposed edit.
EPA/OAR-5	Center for Radiation Site Cleanup	Page 1 or 2, Roles and Responsibilities: Coordination with regional offices of Federal agencies, state agencies, and regional and local stakeholders should be added as a responsibility of the Field Office Manager or Site Manager.	DOE agrees that such coordination needs to take place. Specific roles and responsibilities have not been developed yet.
EPA/OAR-6	Center for Radiation Site Cleanup	Page 2, Schedule Requirements: It is unrealistic to achieve endorsement of End State Visions from regulators and stakeholders within three months (by September 1) of providing it to them for review and comment on June 1, 2003, particularly for sites further along in the	See general response to Recurring Issue/Concern #5.
EPA/OAR-7	Center for Radiation Site Cleanup	Page 2, Guiding Principles, item 6: It is unclear whether stakeholder and regulator input will be considered.	Input will be considered. Language will be clarified.
EPA/OAR-8	Center for Radiation Site Cleanup	Page 3, Strategic Considerations, 1st item: The definition of a "pure" risk-based end state is unclear.	See general response to Recurring Issue/Concern #3.
EPA/OAR-9	Center for Radiation Site Cleanup	Page 4, End State Vision Considerations, item 4 (Minimize the creation of new waste disposal sites) Analysis of security/terrorism issues and who will be responsible for any, however unlikely, future remediation should be part of any consideration of "cap and leave wastes in-place."	DOE agrees that it is prudent to consider such issues.
EPA/OAR-10	Center for Radiation Site Cleanup	Page 8, about the recommended outline: second sentence is unclear.	DOE will clarify language if still applicable.
INEEL Citizens Advisory Board			
CAB-(INEEL)-1	Monte D. Wilson	The INEEL CAB agrees with DOE that end state visions must be agreed upon before cleanup can be acceptable to stakeholders and regulators. We believe that end state visions should be derived through goal setting exercises that involve the broad community. The extent to which the new policy applies to all DOE sites must be tempered by local community values and political realities.	Multiple comments were received on the need for stakeholder involvement. Also see response to Recurring Issue/Concern #10 for further discussion related to this comment.

CAB-(INEEL)-2	Monte D. Wilson	It is disturbing that the new policy does not even refer to the existence of specific agreements related to end states at each of the affected DOE sites. Failure to refer to existing documents and relevant agreements allows the impression that DOE is trying to go back to the drawing board on agreements that were already achieved with regulators and stakeholders. The INEEL CAB recommends that the end state vision be structured as a summary and explicitly reference past agreements and decisions.	Other commenters indicated that the Policy failed to account for existing agreements/regulations. Therefore, a general response to this comment is provided in Recurring Issue/Concern #2. DOE believes that the past agreements that are not consistent with the risk-based end state for the site need to be open for discussion.
CAB-(INEEL)-3	Monte D. Wilson	The INEEL CAB recommends that DOE not attempt to use the new policy to support an effort to change the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). We believe that the cleanup program at the INEEL to date has complied fully with CERCLA, which involves a rigorous, risk-based decision-making process. Those prior decisions have been reached through processes involving public participation and negotiation with regulators. Decisions that have made commitments to clean up legacy contamination must be implemented as previously agreed. The INEEL CAB recommends that the approach described in the new policy and guidance be integrated with the existing CERCLA process for future	Other commenters expressed similar views, and general responses are provided under Recurring Issues/Concerns #2 and #4. As stated in the draft policy, DOE will comply with all applicable laws and regulations.
CAB-(INEEL)-4	Monte D. Wilson	The INEEL CAB recommends that DOE not attempt to use the new policy to support an effort to reverse decisions that have already been made under CERCLA. The failure of the two documents to acknowledge the existence of three-party agreements (involving DOE and its regulators-the U.S. Environmental Protection Agency and the State) for implementation of the CERCLA process and subsequent cleanup decisions created confusion and could create distrust. Decisions that have been made, particularly those that are documented through Records of Decision following comprehensive Remedial Investigation/Feasibility Studies, must be implemented as previously	Other commenters voiced similar views, and a general response is provided in Recurring Issue/Concern #4. As stated above, DOE will comply with all applicable laws and regulations.
CAB-(INEEL)-5	Monte D. Wilson	The INEEL CAB recommends that DOE strengthen the role of stakeholders in developing risk-based end states. The terminology referring to consultation with stakeholders should be revised to suggest a more collaborative approach. Regulators, Tribal governments, and local communities must be involved in defining appropriate end states, particularly for sites where DOE may not have ultimate responsibility for implementing long-term stewardship activities.	DOE agrees that regulators, Tribal governments, and local communities must be involved in developing appropriate end states. Also, see Recurring Issue/Concern #10.

CAB-(INEEL)-6	Monte D. Wilson	The INEEL CAB recommends that DOE continue seeking technical solutions to challenges whenever possible. The Performance Management Plan for Accelerating Cleanup at the INEEL appeared to the INEEL CAB to be overly reliant on a strategy of seeking regulatory relief as a strategy for achieving accelerated cleanup. At no time should regulatory relief be pursued if the result would allow significant increased risk to human health and safety or the environment.	DOE agrees that regulatory relief should not be used as a substitute for cleanup if such relief would threaten human health and the environment. Any decisions to seek regulatory relief must be considered carefully and meet applicable demonstration criteria, e.g., CERCLA Section 121 waiver criteria. Several commenters indicated that the Policy and Guidance did not include a role for technical solutions to cleanup challenges, and a general response to those comments is included under Recurring
CAB-(INEEL)-7	Monte D. Wilson	The INEEL CAB recommends stronger integration between the concept of risk-based end states and long-term stewardship. While industrial end states may be more appropriate than residential end states for more contaminated sites, the result will require more rigorous long-term stewardship efforts. To the extent that local communities may eventually assume responsibility for long-term stewardship, end state decisions must involve the affected community. The draft policy and guidance documents do not yet demonstrate a strong integration of end state determination and long-term stewardship consideration.	Other commenters expressed similar views, and a general response is provided under Recurring Issue/Concern #8.
CAB-(INEEL)-8	Monte D. Wilson	The 4th paragraph on page 1, states that the remediation goals in the past have not been "business-like and efficient." The U.S. government is not a business. The INEEL CAB recommends that DOE replace "business-like" with an adjective that better describes the desired characteristics.	DOE will re-consider the use of the term in the policy document.
CAB-(INEEL)-9	Monte D. Wilson	The 1st paragraph of the Executive Summary (page 1) states that the Department's intent is to "do it right the first time" and implies that cleanup decisions earlier were not done correctly. That statement is unfair. The INEEL CAB believes that most cleanup decisions to date have been based on reasonable end states that were negotiated with the regulators and scrutinized by the public. DOE should not attempt to make changes to decisions that are already acceptable to the public.	A general response to this comment is included in Recurring Issue/Concern #1. DOE understands the sensitivities of revisiting any past cleanup decisions. DOE believes that there may be cases, once all involved parties agree on the end state, where it might make good sense to revisit the decision with the regulators and stakeholders, provided the decision is protective of
CAB-(INEEL)-10	Monte D. Wilson	The 3rd paragraph in Section 1.0 "Introduction" (page 1) appears to be missing a verb. We suggest "The end state vision will help the Department…"	DOE agrees.

CAB-(INEEL)-11	Monte D. Wilson	The last sentence in Section 1.0 "Introduction" (page 1) states that risks associated with end states should consider primary receptors. The INEEL CAB believes that the wording should include all receptors. The discussion in Section 2.0 "Roles and Responsibilities" (starting on page 1) fails to designate the responsibility for coordinating with state regulators and local communities to the Assistant Secretary, the Field Manager, or the Site Manager. The INEEL CAB recommends that these responsibilities for explicitly assigned to the appropriate individuals.	DOE will modify the words if still applicable.
CAB-(INEEL)-12	Monte D. Wilson	The schedule as discussed in Section 3.0 "Schedule Requirements" (page 2) appears to be overly aggressive. For example, it is not clear how DOE can or will draft end states by June 1, 2003. It is similarly naïve to assume that stakeholders will "endorse" the end states by September 1, 2003. Earlier involvement of stakeholders would increase the likelihood that stakeholders will eventually endorse the final end state visions. Our concerns related to the aggressive schedule are exacerbated by the fact that the Guidance Document does not include provisions for what will occur if the schedule cannot be met. It also fails to include descriptions of mechanisms for achieving the milestones	Concerning DOE and stakeholder interface in developing the end-state vision, we realize the schedule is aggressive. Nevertheless, an aggressive schedule is needed to support DOE's overall accelerated cleanup initiatives to deliver real risk reductions and cleanup quicker and more effectively. Also see Recurring Issue/Concern #10.
CAB-(INEEL)-13	Monte D. Wilson	The INEEL CAB recommends that schedules be scrutinized and adjusted if they are not realistic and achievable. Contingency plans should be developed if schedules are not met.	See Recurring Issue/Concern #5.
CAB-(INEEL)-14	Monte D. Wilson	The first bullet under Section 4.0 "Guiding Principles" (page 2) states that the Department will comply with the requirements of the nation's environmental laws and regulations. The INEEL CAB recommends that statement include a commitment to comply with relevant state and Tribal laws and regulations.	The sentence will be revised to reflect your comment. Also, see Recurring Issue/Concern #4.
CAB-(INEEL)-15	Monte D. Wilson	The second bullet under Section 4.0 "Guiding Principles" (page 2) states that "End states, including the selected remedies, must be based on an integrated site-wide perspective (including the current and future use of surrounding land), rather than on isolated operable units or release sites." The concept of averaging across release sites is troublesome. The INEEL CAB recommends that DOE clarify the wording to indicate the intention to clean up each release site to achieve an end state that is acceptable to stakeholders.	The language in the draft Guidance is to address the concern that end states may be emerging as a de facto result of multiple interim actions, which could result in inconsistent cleanup decisions. This is not meant to imply a concept of "release site averaging" or of doing less at each release site.
CAB-(INEEL)-16	Monte D. Wilson	The sixth bullet under Section 4.0 "Guiding Principles" (page 2) states that "stakeholders and regulators must be consulted." Environmental laws require public participation, not just consultation. The INEEL CAB recommends that DOE use wording that more accurately indicates the requirements for meaningful public involvement.	Other commenters provided similar comments. See general response to Recurring Issue/Concern #10.

CAB-(INEEL)-17	Monte D. Wilson	It is not clear what is meant or implied by "pure" risk-based end state as discussed in Step One of DOE-internal planning under Section 5.0 "Strategic Considerations" (page 3). The INEEL CAB had understood that the concept of risk-based end states is fundamental to the CERCLA process. If DOE considers the risk-based end state used by CERCLA to not be "pure" enough, stakeholders will need to know more about this problem and how this policy will improve the goal of a risk-based end state.	Other commenters provided similar comments. See general response to Recurring Issue/Concern #3.
CAB-(INEEL)-18	Monte D. Wilson	The fourth paragraph in Section 5.0 "Strategic Considerations" (page 3) states that site characterization must include a "validated site conceptual model." That term needs further explanation. Who would validate a conceptual model and on what basis?	The terms will be either be modified or deleted.
CAB-(INEEL)-19	Monte D. Wilson	The final paragraph in Section 5.0 "Strategic Considerations" (page 4) makes good points, but the relationship between cleanup and long-term stewardship needs to be strengthened.	Other stakeholders provided similar comments. See general response for Recurring Issue/Concern #8.
CAB-(INEEL)-20	Monte D. Wilson	The second point under the discussion in Section 6.0 "End State Vision Considerations" (page 4) attempts to redefine "end state" as beginning at the time that the remedy is "operating as designed." The INEEL CAB completely disagrees. We recommend that DOE indicate acceptance of the generally held concept that the end state cannot be achieved until the remedy has been completed and contamination has been removed, reduced to acceptable levels, or contained in an approved manner.	See response to Recurring Issue/Concern #3.
CAB-(INEEL)-21	Monte D. Wilson	The sixth point in Section 6.0 "End State Considerations" (page 5) suggests that DOE should have the authority to declare a remedy complete. The INEEL CAB objects strenuously and recommends that this point be deleted. The regulators must retain authority to declare a remedy complete.	DOE agrees that the regulators have approval authority for determinations of remedy completion. We will consider providing additional clarification.
CAB-(INEEL)-22	Monte D. Wilson	Section 7.0, "Scope and Content" (page 7) appears to indicate that DOE intends to use the proposed vision document as an excuse to not prepare specific plans and schedules for cleanup of specific sites. All of the items listed in the portion on "what the vision document is not" are important concerns. At the very least, there should be clarification that DOE is obligated to provide meaningful public participation in developing detailed plans, schedules, and budgets. In addition, DOE must comply with all the regulatory requirements and agreements, including those that are not addressed in the vision document.	The end-state vision document does not replace documents required by regulations.
Interstate Technology Regulatory Council			

ITRC-1	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Much of the text in this policy and guidance seems to reiterate existing Federal and State processes currently being implemented. It would therefore be useful to add citations of applicable guidance where appropriate and clearly describe any proposed deviations from established policy and guidance. Current EPA RCRA and/or CERCLA publications provide the guidance necessary to conduct effective, efficient remediations incorporating end state decision needs. This is in conjunction with effective regulator/stakeholder interaction and planning would have prevented the current problem and obviate the need for this guidance.	See general responses to Recurring Issues/Concerns #2, #4 and #10.
ITRC-2	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Technology investment and remedy selection should revolve around protective end-states and not vice-versa. Instead of setting end-states based on what is "technically achievable" today, end-state policy and priorities should set the agenda for technology development.	See general response to Recurring Issue/Concern #9.
ITRC-3	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	The policy should include the concepts of minimizing life-cycle risk, damage and cost (dollars, natural resources, community development, ecological habit, and community livelihood) to the human and ecological communities at the site. The cost of more extensive cleanup should be weighed against any long-term monitoring costs that may be required by cleanups driven by a "risk-based end state".	See general response to Recurring Issue/Concern #8.
ITRC-4	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	The policy could be improved to allow the sites to take advantage of improvements in technology as well as risk assessment techniques. Technological innovations, as well as improvements in the risk assessment process, could very well lead to improved (less restricted) end-states if taken advantage of in the future.	See general response to Recurring Issue/Concern #9.
ITRC-5	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	The guidance suggests that DOE is conducting cleanups without specific end-states in mind. In fact, most sites are conducting risk-based cleanups tied to a well defined future end-state. Such cleanups are being implemented consistent with CERCA, RCRA and other regulatory drives that support the use of risk-based remediations. At many DOE sites, e.g., Rocky Flats, Fernald, INEEL and Mound, end-states have been developed and are used to direct the cleanup.	See general response to Recurring Issue/Concern #2.

ITRC-6	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	The document is generally too vague to provide much useful guidance. It is not clear, for instance, exactly how risk is to be calculated. This vagueness is exacerbated by the use of unfamiliar terms, such as 'risk based end-state', 'transparent and effective institutional controls', 'pure risk' and 'surveillance plan', etc., without ever providing a clear definition of what they mean. It is unclear how a site could use this guidance document to develop a change in its PMP or baseline.	See general response to Recurring Issue/Concern #3.
ITRC-7	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Natural Resources Damages (NRD) should be discussed and evaluated during the preparation of a site's risk-based end states vision. Under CERCLA, Natural Resources Damages are injury to, destruction of, or loss of natural resources ("land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources"). The assessment of these damages would include the cost of restoring or replacing the injured resources, compensation for the interim loss of the resource and the reasonable cost of a damage assessment. While there may be some overlap to an evaluation of risk and an evaluation of NRD, often they will be separated. An example of this would be when the remedy is a decision to leave the resource contaminated, but isolate it from a potential receptor. Nevertheless, even when this risk is "managed", the "lost" or "injured" resource is important and should be considered in the end state decision and any evaluation of life cycle	See general response to Recurring Issue/Concern #4.
ITRC-8	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Specifically land/water use up front to set the course of investigation, risk assessment, and cleanup is already being done. The use of land and water at sites generally lays the groundwork for the risk assessment to be conducted in real terms. The current practices under CERCLA and State allow for reasonable and realistic risk evaluations. Most states incorporate the land/water use upfront in their required risk assessments, and estimate the current and reasonable likely future extent of contamination to identify potential receptors. We think that what the DOE wants can be done and, in fact, is already being done.	See general response to Recurring Issue/Concern #2.
ITRC-9	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Evaluating the risk and cleanup for sites, or parcels of property, as a whole needs to be carefully executed. The goal of evaluating a site as a whole is reasonable, but should include a consideration of "hot-spots". The term "sites" as used in the guidance is also vague and could lead to confusion.	See general response to Recurring Issue/Concern #3.

ITRC-10	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 1, para 4: This section should be consistently used, which is "what remains after cleanup is complete." This section should explain that this refers to the 'residual risk', which is usually considered part of a remedy evaluations and would require a final comprehensive risk assessment. The final sentence of this paragraph describes the three primary components of an end state risk analysis. Since the primary receptors are determined by the expected land use, these really form one component. An additional important component of this analysis is the target risk level, a two-orders-of-magnitude range at CERCLA sites.	See general response to Recurring Issue/Concern #3.
ITRC-11	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 3: Unless the site's draft End State Vision is clearly based and incorporated much of the foregoing work in which regulators and stakeholders have been involved, it is unlikely that their endorsement can be secured in three months. The more the vision reflects fundamental change, the less likely such endorsement will be. We recommend the department apply a NEPA style scoping process to gain insight from regulators and stakeholders for the development of the vision. This effort should incorporate a meaningful public participation process. It is highly unlikely that the listed schedule can be met.	See general response to Recurring Issue/Concern #5.
ITRC-12	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 4, 1st bullet: This bullet should be rephrased so that it does not imply that developing risk-based end states conflicts with environmental regulations compliance. Existing environmental regulations are flexible enough to achieve risk-based end states. DOE needs to clarify that the end-state vision is an internal DOE requirement guiding their internal strategy.	See general response to Recurring Issue/Concern #4.
ITRC-13	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 4, 2nd bullet: In principle, this bullet is correct, if the receptors are assumed to be exposed to not just one or two isolated operable units or release sites but too many. But various opinions exist as to the feasibility of an "integrated, site-wide perspective" for sites comprising over 100 acres. The document could be greatly improved if more specific directions were given as to what would be considered a reasonable area of exposure, and whether this could include the area extent of contamination at all DOE facilities.	Guidance on this subject will be provided in the Corporate Strategy. Also, see general response to Recurring Issue/Concern #3 for further discussion related to this comment.

ITRC-14	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 4, 4th bullet: Short-term risk are already addressed by considering short-term effectiveness, one of the 9 criteria in the CERCLA remedy selection process. Worker safety is important to us all, however this principle suggests it will be used to favor a no action alternative in many cases. For example, at Rocky Flats, a "no action" alternative has been suggested for a landfill rather than capping, because of the risk posed by increased truck traffic bringing cap materials to the site. Additionally, this statement is not consistent with the term "risk" as previously stated under Section 1 above: "For the purposes of implementing this guidance, the term risk means the risk to human health and the environment after remediation is complete".	See general responses to Recurring Issues/Concerns #3 and #4.
ITRC-15	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 4, 5th bullet: It is unclear what DOE means by "transparent and effective institutional controls" that will maintain isolation over the time frames required by most DOE contaminants. Most institutional controls have been shown to fail over rather short time frames and none have been demonstrated to be effective over the extremely long timeframes required by the majority of DOE site contaminants.	See general response to Recurring Issue/Concern #7.
ITRC-16	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 4, 6th bullet: It states "Stakeholders and regulators must be consulted in the actions needed to develop and achieve risk-based end-states." This bullet acknowledges the need for consultation. Simple consultation, however, will not lead to an agreed upon end-state. There are legal requirements for DOE to seek approval from both state agencies and the US EPA at most sites.	See general responses to Recurring Issues/Concerns #4 and #10.
ITRC-17	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 4, 7th bullet: This bullet is a reiteration of the five-year process currently in Federal and State law. As such, it is beyond the "policy" state, and the document would be improved if the relevant portions of CERCLA and RCRA laws and implementing regulations were simply cited.	DOE agrees that the 5-year review should be mentioned.
ITRC-18	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 5, Step 1: The guidance is unclear on what a "pure" risk-based end state means. The suggestion that DOE's risk approach is more "pure" is inappropriate. ITRC's document "Determining Cleanup Goals at Radioactively Contaminated Sites: Case Studies" (April 2002) shows DOE sites use several methods to achieve cleanup levels including risk-based methodology. CERCLA provides clear instructions on the use of risk-based cleanups and the NCP provides boundaries of acceptable risk. This section does not provide a basis for why this "pure" risk approach is more appropriate than that methodology currently used throughout the country for addressing contaminated properties.	See general response to Recurring Issue/Concern #3.

ITRC-19	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 5, Para 4: The last sentence in this paragraph implies that "active remediation" competes with other remedial alternatives. This term should be defined, but it is assumed that it generally means soil removal. It would be more accurate to suggest that "active remediation" is one of the mix of remedial alternatives that should be considered, including "barriers or contaminant containment efforts or other engineered and/or institutional controls", that a site could use to achieve	DOE agrees that active remediation is one of the mix of remedial alternatives that should be considered. Also, see general response to Recurring Issue/Concern #3.
ITRC-20	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 5, Para 5: It is stated that "…NPL sites are encourages to take advantage of the (ARAR) waivers process in defining a risk-based end state…" The first effort in any remediation or cleanup should be to comply with ARARs, however this policy actually encourages the use of ARAR waivers rather than compliance. Waivers should be requested only if compliance becomes impractical.	See general response to Recurring Issue/Concern #4.
ITRC-21	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6: Some additional guidance should be provided with regard to life-cycle costs, so that standard discounting does not undervalue long-term risks. It is unclear how life-cycle costs can be assessed and "trade-offs" made between activities that occur over many years. Without adequate characterization, it is impossible to understand what the remedial actions will be. Without knowing the degree of success of a remedial action you can't project the requirements and cost of institutional controls.	See general response to Recurring Issue/Concern #7.
ITRC-22	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6: The term "steady state" should have a timeframe of proven performance associated with it. That is, an end-state cannot be achieved until the pump and treat is operational and reaching treatment objectives for a given period of time.	See general response to Recurring Issue/Concern #3.
ITRC-23	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6: As a rule, "recreational use" cannot be assumed unless accompanied by clear, reliable institutional controls.	DOE agrees.
ITRC-24	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6: As noted elsewhere, a land-use model needs to take account of the values of present and future communities that will influence the actual land use and determine in large measure the reliability of institutional controls. We are skeptical that this kind of knowledge resides inside EM or the various sites, and strongly suggest the need for involving local communities, Tribes, and experts in land-use patterns.	DOE agrees that determining land use patterns necessarily must involve a broad range of stakeholders. Also, see general response to Recurring Issue/Concern #10 for further discussion related to this comment.

ITRC-25	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6: Contingency plans and monitoring are not sufficient in themselves. There must be a broad-based acceptance of an institutional pattern that will both sustain and demand accountability for protective measures, physical and institutional, and a mechanism to assure periodic re-evaluation of remedies, their effectiveness, new technologies, and changed conditions.	DOE generally agrees. Also, see general response to Recurring Issue/Concern # 9 for further discussion related to this comment.
ITRC-26	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6: We would suggest an additional consideration, DOE/EM should have a means to learn from its past endeavors, to share knowledge among sites, and to continue to accumulate knowledge as end-states are reached and additional visions are developed. There should be provision for strategic knowledge management as a part of the corporate policy.	DOE agrees with the comment and will consider the recommendation in the Corporate Strategy.
ITRC-27	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6, #2 should be reconsidered. End-state should begin when remedial objectives have been met, not when a steady state in the remedy is achieved. Based on the stated example perpetual pump and treat would be the end state.	See general response to Recurring Issue/Concern #3.
ITRC-28	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6, #4: This consideration fails to acknowledge the concept of improved engineered waste/treatment storage. Simply capping materials in place will likely lead to future releases, higher maintenance costs and more sites requiring long-term management. This consideration suggests DOE is currently sending waste for disposal at "clean" sites. We are unfamiliar with any such situations currently occurring. Rather, DOE is either sending waste for disposal at a commercial disposal facility where similar wastes are being managed or to a disposal facility within the complex where wastes are currently being managed. DOE needs to consider alternatives if cleanup to their determined end-state vision is not feasible; they need to change their end-state vision or revisit the scope of their cleanup goals that cannot be met. There are a growing number of onsite disposal options that still allow the intended	The DOE is unclear on the intended meaning of the comment. DOE agrees that sending waste for disposal at clean sites is not a current widespread practice. DOE further understands that the goal of keeping the footprint to a minimum cannot be applied in an absolute sense, and that there are situations in which creating new disposal sites is preferable to in-place containment by simple capping.
ITRC-29	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6, #5: It is unclear what DOE means by "relevant pathways and receptors." We recommend DOE utilize US EPA's risk assessment methodology, which provides accepted and well-implemented guidance on pathway and receptor selection. We also suggest including "all exposure media, and all exposure pathways". The document should state or cite the requirements for developing a Conceptual Site Model (CSM), as there are a variety of opinions on what constitutes a CSM.	Terms and definitions are being considered and/or developed.

ITRC-30	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6, #6: The intent of this consideration is unclear, but it seems to suggest that current regulatory strategies don't allow completion of the cleanup mission. "Closure" marks the beginning of the "end-state" and is different for every site. Determining when a remedy is complete is not in the sole discretion of DOE and in most cases requires approval by both the state and federal regulating agencies. Suggest changing the first sentence of this item to read, "The regulatory strategy must contain decision criteria that allow DOE to determine when the end-state begins and when the remedy is complete."	DOE agrees that it does not have unilateral authority in this regard. Also see general response to Recurring Issue/Concern #3 for further discussion related to this comment.
ITRC-31	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 6, #9: ITRC's 2002 LTS survey of state regulators showed that regulators believed that the use of new technology, redundant systems and remote data collection/transfer are all important for the successful implementation of long term stewardship. Additionally, the survey respondents felt that community education in the form of on-site education museum and classes were important elements to a successful stewardship plan.	See general response to Recurring Issue/Concern #9.
ITRC-32	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 7: This section of the document is a description of the conceptual model process first articulated in EPA's Data Quality Objectives guidance published in 1986. Again, this is beyond the policy state, and the relevant portions of the existing guidance documents should be simply quoted or cited.	While DOE agrees that the conceptual model process is well established, there is no discussion of this in Section 7. Comment is unclear.
ITRC-33	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 7: The description of what the document is not is helpful. However, it then poses the question: Why should regulators or stakeholders endorse it if it is not a plan, a budget baseline document? Is this a document to drive DOE internal strategy? If the latter, then any part of it that is not acceptable to regulators and stakeholders will lead to confrontations as DOE attempts to apply it in one of these other arenas.	DOE believes regulator and stakeholder participation is a key aspect of obtaining a common end state vision for the site. The RBES vision document will provide end state description at the site when cleanup is completed.
ITRC-34	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 7: This section should acknowledge that DOE sites are in various stages of characterization and cleanup so that some sites may not be able to fully describe "remaining hazards". It should also acknowledge that during the characterization and cleanup process, end-state visions might need to be modified.	See general response to Recurring Issue/Concern #5.

ITRC-35	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 7, bullet 4: This section implies that Federal Facility Agreements do not consider site risk or future site uses, and suggests that, "each site may be required to revisit compliance agreements." Most states, however, feel that their agreements do have a risk basis and do incorporate clearly articulated end-state visions. Some (e.g., Rocky Flats Cleanup Agreement, Hanford's Tri-Party Agreement) have been modified as the end-state vision has changed. However, it is unlikely that most states would be willing to invest resources towards reopening their agreements and final RODs to re-negotiation.	See general responses to Recurring Issues/Concerns #1 and #2.
ITRC-36	NY-Eric Hanssaman CO- Carl Spreng CA-Steve Dizio	Section 7, bullet 4: The more DOE emphasizes its intent to (1) accelerate cleanup and (2) to "do it right and completely the first time", the more regulators and stakeholders will demand to see strong, clear commitments to institutional arrangements that provide confidence in the viability and durability of "intended land uses", other institutional controls, physical barriers and protective systems.	See general response to Recurring Issue/Concern #2.
Jurka, Vicki			
Public-KY-1	Vicki Jurka	A guidance document should be structured in a manner that supports a policy from beginning to end. In essence, it should be the skeleton that guides the execution of a policy. While this document begins with the reality of highly contaminated sites, its skeleton gradually deteriorates, as it succumbs to impractical schemes that steadily move the policy from that reality to a visionary state. In fact, in finality with enduring risk to both human health and the environment.	DOE is currently working on revisiting the guidance and your comment will be considered. Please note once the policy is finalized, DOE intends to develop a Corporate Strategy document which will outline DOE's implementation path forward.
Public-KY-2	Vicki Jurka	Through the use of institutional controls the "guiding principles" (4.0) defer to future unbridled cost when methods as primitive as isolation dominate (#5). Guiding principle number 7 reinforces the intent to impel the cost of complex remediation into the future while bequeathing unspecified risk. The guiding principles clearly favor abatement over remediation due to the lack of inclusion of any guidance for the selection of permanent remedies and by the apparent willingness of any guidance for the selection of permanent remedies and by the apparent willingness to allow unremediated conditions to exist for decades. The guiding principles also fail to recognize that sites with complicated mixtures of contaminants could produce multiple risk-based conditions, impacting the selection of proper remedies (3). Additionally, the Department should comply with all applicable laws and regulations throughout the risk-based end state process. In principle number 1 the compliance strategy for achieving the end state could potentially "drive" around or over	See general response to Recurring Issue/Concern #4.

Public-KY-3	Vicki Jurka	Strategic consideration (5.0) number 1 bases "new cleanup criteria on " 'pure' risk-based end state". While it is noble to envision a "pure" state, complex sites like Paducah would contraindicate the need for purity in this approach. The degree and extent of contamination with the associated risks at the Paducah site could easily force a risk-based end state decision for a nuclear dump site rather than a reindustrialized site. Additionally , while the stated intent of the internal plan is to provide significant benefits to the Department as well as the community certain caveats exist for the community. Strategic consideration number 3 speaks of "legal options" that could take the form of institutional controls imposed on private parties. Immediate "cost savings" (#2) could eliminate more effective yet costly cleanup technologies that would benefit the community for the long-term. The renegotiation of regulatory agreements (#2) as well as the renegotiation of cleanup criteria (#5) could eliminate oversight by other Agencies.	See general responses to Recurring Issues/Concerns #1 and #3.
Public-KY-4	Vicki Jurka	In the purpose and scope of the draft policy the Department clearly demonstrates its disdain for the requirements of prescribed milestones; agreed to be all parties under the Federal Facilities Agreement. When the parties entered into the Agreement and devised an action plan they were fully aware of the potential for and necessity of revisions and amendments of the milestones. Those milestones are an important tool that enables community members to track the progression of the	See general response to Recurring Issue/Concern #1.
Public-KY-5	Vicki Jurka	Many of the end state vision considerations were "touched on" in earlier paragraphs but notably one stands alone. Consideration number 2 states "the 'end state' begins when a steady state in the remedy is achieved". The example given demonstrates the undesirability and inappropriateness of this condition. In reality the technology could be operational without producing the anticipated result that defined or eliminated the risk associated with reaching the end state. Consideration number 2 is seriously flawed. Also, consideration number 6 allows DOE and DOE alone to "articulate when the end state begins and...is complete." No one agency should have that authority. All parties involved in the Federal Facilities Agreement should have an equal say in that regard.	DOE did not mean to imply that it has unilateral authority in this regard. Also see general response to Recurring Issue/Concern #3 for further discussion related to this comment.
National Governors Association-Federal Facility Task Force			

NGA-FFTaskForce-1	Ethan Brown	DOE needs to build upon what already exists. DOE correctly notes the momentum that an agreed-upon end state can give to a site's cleanup program. However, the documents should recognize that, at many sites, risk-based cleanup goals already exist through CERCLA, RCRA, and site-specific agreements (e.g., Federal Facility Agreements). Some states are concerned that this policy is simply redundant, and could have the effect of derailing ongoing risk-based work at their sites.	See general response to Recurring Issue/Concern #2.
NGA-FFTaskForce-2	Ethan Brown	DOE should better-describe the precise problem it is intending to solve. While the documents provide general statements about the problems that might be caused by the lack of clearly defined, risk-based end states, it would be helpful to states if DOE would identify specific cases where problems have arisen and the precise problem DOE is intending	See general response to Recurring Issue/Concern #2.
NGA-FFTaskForce-3	Ethan Brown	The policy should provide for consideration of other factors in addition to risk. Especially in light of the high degree of uncertainty in defining and quantifying risk, the policy should allow other factors to be considered, for example: the uncertainty of future land use; unique opportunities for cleanup (e.g., clean up to unrestricted use for a modest additional investment); operational efficiencies; minimizing the long term liability arising from LTS responsibilities; desirability of "mortgage reduction;" and minimization of socioeconomic, cultural, and land-use impacts.	See general response to Recurring Issue/Concern #3.
NGA-FFTaskForce-4	Ethan Brown	Long-term Stewardship must be addressed. At any site where cleanup is targeted to an end state short of "unrestricted use," some level of long-term stewardship will be required. For such end states to be acceptable to the states and stakeholders, DOE must be able to demonstrate that a mechanism for assured funding is in place to support LTS, and that institutional controls are enforceable and comply with state laws regarding ICs.	See general response to Recurring Issue/Concern #6.
NGA-FFTaskForce-5	Ethan Brown	Policy must be consistent with CERCLA. CERCLA expresses a statutory preference for permanent remedies, while the current policy can be read as preferential to the isolation or sequestering of contaminants. This is a critical issue in need of clarification.	See general responses to Recurring Issues/Concerns #4 and #8.
NGA-FFTaskForce-6	Ethan Brown	Interim measures must not be ruled out. Rather than setting forth a blanket criticism of interim measures, the policy should recognize that such measures can be highly appropriate and effective steps in reducing overall cleanup costs, preventing the spread of contamination, and in determining the effectiveness of cleanup technologies.	See general response to Recurring Issue/Concern #1.

NGA-FFTaskForce-7	Ethan Brown	Introductory sections of policy must be revised. The "purpose and scope," and "background" sections of the policy must be revised to remove inaccurate and discredited criticisms of state regulatory requirements. Federal Facility Agreements may seem cumbersome at times, but they have been essential vehicles in forcing what progress has been made to date. They are and have been living documents, that is, they have built-in flexibility to respond to revised assumptions or technology developments, etc. Indeed, FFAs are specifically designed to overcome several problems that this policy is intended to address: to avoid piece-meal regulation, to integrate various regulatory programs, and to capitalize on RCRA and CERCLA processes that are already fully	See general response to Recurring Issue/Concern #1.
NGA-FFTaskForce-8	Ethan Brown	Rocky Flats serves as a good source for lessons learned, but all aspects of the Rocky Flats model are unlikely to be entirely appropriate for any other site. Each site has characteristics that are unique and will likely require end state approaches that are distinctive to that particular site. In addition, sites with future NNSA missions are under very different circumstances than sites that no longer have such a mission. States are concerned that DOE is moving toward a one-size fits all for carrying out cleanup driven by risk-based end states.	See general response to Recurring Issue/Concern #5.
NGA-FFTaskForce-9	Ethan Brown	Clarifications needed. To erase any uncertainty, the policy should clarify: --The end state is the driver for remedy, rather than the other way around; --definition of "pure risk;" --definition of when the "end state" is achieved; --distinction between risk-based end state and future land use.	See general response to Recurring Issue/Concern #3.
Nez Perce Tribe			
Public-NezPerce-1	Sabotta	The source for our response to the proposed policy and guidance document can be found in the Purpose and Scope and Background sections of the proposed policy. In particular, we disagree with the message of the first sentence in Background, "The Department's Top-to-Bottom Review (February, 2002) found that the nation's twelve year investment in the cleanup program had achieved little real risk reduction."	Multiple comments were received on the presentation in the Background section of the draft Policy. Therefore, a general response is included in Recurring Issue/Concern #1. DOE does not dispute that risk has been reduced as a result of past cleanup activities. However, DOE believes, as stated in the Top-to-Bottom Review, that little real risk reduction has been achieved relative to the

Public-NezPerce-1	Sabotta	(cont.) If risk assessment is a valid element in risk reduction, then the above statement is misleading. We would argue that the twelve year time frame has been one in which tremendous strides have been made in risk assessment at Hanford. The federal government has faced major challenges in changing the focus of the defense complex sites from the defense mission to environmental clean-up. This has involved overcoming a 50-year history of maintaining high security and secrecy in processes occurring at any one facility at Hanford, to move forward with a mission of integration so that the clean-up mission can view the site as a whole.	"……"
Public-NezPerce-1	Sabotta	(cont.) This has involved developing an accurate inventory of radionuclides and hazardous chemicals used and disposed at Hanford from disposal records, institutional memory, supply records related to process, and any other source that could help fill in the blanks. This has involved developing integrated models to clean up radiological superfund sites the likes of which no one has experienced or modeled before. This has involved focusing science and technology on contaminant fate and transport issues, which are new to subsurface science.	"……"
Public-NezPerce-1	Sabotta	(cont.) This has been a twelve-year effort in an attempt to characterize the site to the extent that risk assessment can reasonably take place. Expecting such a challenge, fraught with a multitude of unknowns and uncertainties, to be handled in a "business-like and efficient manner" is likely quite unrealistic. Three steps which must occur prior to risk characterization (estimates of risk and explanation) are: Contaminant identification – what is present; exposure assessment – how is contact made with human and environmental receptors; and toxicity assessment – what are the adverse health effects.	"……"
Public-NezPerce-1	Sabotta	(cont.) We maintain that the past twelve years at Hanford have been intensely focused on these steps. As such is it misleading to suggest that little real risk reduction has been accomplished, when in fact a great deal of necessary work has been accomplished towards the process of risk reduction.	"……"
Public-NezPerce-2	Sabotta	In addition, ERWM understands that newly obtained information and knowledge can change the status of the Federal Facility agreements, and thus the approach to any part of the clean-up problem, at any point in time. We maintain that the regulatory agreements and associated compliance milestones are living entities, to be changed through due process when change is appropriate.	DOE agrees.

Public-NezPerce-3	Sabotta	We agree with the comments from the states of Idaho, Oregon, Colorado and Missouri, which maintain that CERCLA and RCRA (and thus our nation's environmental laws) are already adequately dealing with risk. It is clear that the findings of the Top-to-Bottom Review promote a "faster and cheaper" approach to clean-up at the DOE complex sites. But we do not believe that those findings are totally consistent with the fundamentals of national environmental law. Essentially, we believe that there is little to no reason to use precious Federal resources to develop an alleged new, more "effective" approach – disguised as a risk-reduction process - to defining clean-up goals at the defense complex sites. We recommend that this project be	Other commenters voiced similar concerns that the guidance and policy seemed redundant or inconsistent with existing environmental laws and regulations. Accordingly, general responses are provided under Recurring Issues/Concerns #2 and #4.
U.S. Nuclear Regulatory Commission			
NRC-1		The decision-making and technical approach being advocated in this policy is capable of being interpreted in a manner that is reasonable. However, the policy is quite broadly stated. In particular, although decision analysis methods are referred to, the particular decision methods and criteria for selecting risk-based end states is not specified. Hence, sites could implement this policy in ways that might be inconsistent with one another. Specific guidance on risk analysis and decision criteria would provide consistency. Both the policy statement and the guidance document on "Development of Risk-Based End State Visions," are well written and clear; but, as noted, could benefit by including references to more detailed guidance and criteria explaining the approach being advocated.	DOE agrees that more specificity in the documents would promote consistency. DOE intends to provide "tools" that can be used in developing the RBES vision and also achieving consistency.
NRC-2		The "Guiding Principles", outlined in section 4, appear to lack a risk/dose goal(s) that may be necessary in order to achieve risk-based end states as well as defining risk (such as who, where, when).	DOE will consider your comment in the final document.
NRC-3		The "Guiding Principles" may need to include an element of cost/benefit risk analysis for assessment of options for cleanup cases. Using this element may support decisions for cleanup actions especially for cases with prohibitive cleanup costs and relatively low risk. The cost/benefit risk analysis could also be an asset in prioritizing cleanup activities.	DOE will consider your comment in the final document.
NRC-4		The Guidance did not address the linkages between the institutional controls, land use, and risk-based end state. The Guidance may benefit from addressing these linkages in order to facilitate its future implementation.	See general response to Recurring Issue/Concern #3.

NRC-5		The Guidance also needs to address the process that will be used to determine the intended land use.	DOE generally agrees and your comment will be considered for the Corporate Strategy document that will be developed once the policy is approved. Many sites have considerable experience in how to involve the public effectively in formulating future use recommendations. Some sites relied heavily on existing citizen boards, while other sites sought public input through workshops,
NRC-6		The Guidance may need to develop strategies in how to deal with, and resolve differences or conflicts that may arise among the diversified interest groups or parties (e.g., stakeholders, such as Tribal Nations, local community, and regulatory community).	As stated above, once the policy is approved, DOE intends to develop a Corporate Strategy document that will outline DOE's implementation path forward including, but not limited to, how to involve stakeholders and
NRC-7		The Guidance did not address, or refer to, the approaches, methods, and tools (including the time-frame to quantify human health impacts and environmental risk). The Guidance would benefit from referring to these tools and methods and developing a performance assessment methodology for the risk impact analysis. For example, selection of probabilistic versus deterministic analysis approaches in environmental risks and health impacts, and evaluation of associated uncertainties, may be significant issues that need to be addressed in the guidance before developing the risk-based end state visions.	The "Tools" section of the guidance will provide list of useful tools in developing the RBES vision for the site.
NRC-8		The trade off between having a risk-based end state vision with large uncertainties in the risk estimated and the costs for collection of characterization data to reduce these uncertainties, to have technically defensible estimates, may need to be addressed in the Guidance.	DOE will consider your comment in the final document.
NRC-9		The issue of financial assurance for long-term environmental monitoring and institutional controls and designation of a responsible party may need to be addressed.	See general response to Recurring Issue/Concern #6.

NRC-10		Section 8.0 "Tools" of the document as well as a "Reference" Section is lacking in the document.	See general response to Recurring Issue/Concern #6.
Pickett, A.B.			
Public-1	A.B. Pickett	My comments on the cleanup driven by risk-based assessments is as follows. How can the public make an accurate assessment if they don't know what is going on at the plant. It is time the DOE come clean with the public and let them know what went on and what is going on now. There has been too much secrecy and cover up of dumping of cancer causing material to the environment. Some horrible stuff has been flushed down the river where people who get their drinking water are being exposed to cancer causing material. I believe this is irresponsible and also criminal. The ground around here is destroyed forever and can't be cleaned up because of the long lives of these contaminants.	The Department is committed to an open and responsible environmental management program at our facilities in accordance with the applicable laws and regulations. The Department initiated the Risk-based End State (RBES) project to identify ways to improve and accelerate the cleanup activities at the sites.
Poe, Jr., W. Lee			
Public-SRS-1	W. Lee Poe, Jr.	In my comments on the Long-Term Stewardship Strategic Plan, I made the point that stewardship starts and ends with end state decisions which I thought, and still do think starts with a decision on "end state" for the facility or site. By having and "end state" decision on how the facility/site will be left, proper decisions can be reached on how clean up the facility/site to ensure there are no risk to the public and the environment. I appreciated your rapid response letter (ref. 2) telling me that you had some of your staff working on that issue. (I note from Section 7.0 of the Guidance Document that the policy had been completed on March 30, 2003, before my letter.)	See general response to Recurring Issue/Concern #3.
Public-SRS-2	W. Lee Poe, Jr.	When I received the draft Policy and Guidance Documents I recognized that it was what you referred to in your letter. Thanks for starting the process of determining "end state" for the various sites. I am still concerned about the process. I have heard nothing about the Long-Term Stewardship vision since my August comments but I suppose it is an ongoing activity. In addition I see nothing that specifies how Long-Term Stewardship and End State Visions interrelate. If DOE is to do cost effective cleanup on facilities that poise the largest risk initially, the "end state" decision must be reached first then the risk levels each facility causes must be determined and the facility remediated to remove the risk sources. I see nothing in either two visions that interrelates the two	See general response to Recurring Issue/Concern #6.

Public-SRS-3	W. Lee Poe, Jr.	I have been very vocal at the local level that DOE must look at real risk to people and the environment in selecting where our budget should be spent. My reference to real risk is to state that risks should be determined by the best science we possess not to regulatory defined risks. As an example, the difference between real science dose conversion factors that cause damage to humans and the regulatory dose commitment required for tritium releases are significant. The use of the regulatory approach adds a large safety factor and may cause money to be spent remediating tritium rather than some of the other radionuclides or hazardous chemicals. In addition the regulatory assumptions made specify the location of people exposed when land use may indicate something completely different. I sense that the End State Policy and Guidance Document are attempting to help solve this issue. If my supposition is correct, the Guidance Document should more directly address the issue.	DOE generally agrees with the sense of the comment. However, DOE cannot "free form" dose conversion factors and instead must rely on EPA and other standards-setting organizations such as the National Council on Radiological Protection. DOE also intends to ensure that realism is introduced into future-use assumptions; for example, see recent SRS ROD "Remedial Alternative Selection for the General Separations Area Consolidation Unit," WSRC-RP-2002-4002, August 2002.
Public-SRS-4	W. Lee Poe, Jr.	I conclude that the intent of this Policy and Guidance Document are necessary/important activities. I congratulate DOE for their vision and intent and support the interactive effort to implement the policy. I recognize its implementation will be contentious by the process will allow the necessary views to be heard and lead to a beneficial conclusion. I also understand the need for this process to be cost effective because funds are constrained. Lets not cleanup for the sake of cleanup. I hope and expect DOE will push this activity forward. In saying that, I do not feel all DOE sites have the same urgency for its completion but I expect DOE to require measured progress at each Site.	Thank you. DOE agrees that not all sites have the same urgency for site completion.
Public-SRS-5	W. Lee Poe, Jr.	The term "Risk Based End State" is confusing, What is the significance of a risk based End State? I suspect this is jargon or a catchy name. Parts of that buzz phrase, when used separately, carry important meaning to DOE. The end state is how the various facilities and operable units will be left after cleanup for planned future use of the facility or land it occupies. (DOE defines what they mean in the last paragraph of Section 1.0 Introduction in the Guidance Document.) A clear statement of DOE's plans is in the first paragraph of the Implementation section of the Policy. DOE is probably trying to develop an end state policy that will provide acceptable risk to receptors. I suggest deleting the term "risk-based" from the title of the two documents and explaining how risks will be measured and what is acceptable risk in the policy and guidance document. Minimize the use	See general response to Recurring Issue/Concern #3.

Public-SRS-6	W. Lee Poe, Jr.	A decision on what vision DOE has and is using for end state of the various facilities and operable units is vital to provide cost effective cleanup. I applaud DOE's beginning recognition of this need and initiation of the process to achieve an end state vision. The three paragraphs of the Implementation section of the policy describe the actions DOE expects, I fully accept this vision. Unfortunately this clarity is not achieved in the remainder of the two documents.	DOE will try to achieve greater clarity in other sections of the two documents.
Public-SRS-7	W. Lee Poe, Jr.	DOE identifies "three primary components that must be considered in the analysis of end state risk: the expected land use, the remaining hazards, and the primary receptors" in the last sentence of Section 1.0 of the guidance document. The same paragraph defines risk as "risk to human health and the environment after remediation is complete". DOE is clearly defining the proper conditions for this policy and guidance	Thank you.
Public-SRS-8	W. Lee Poe, Jr.	The schedule for completion of development of this policy and its definition of the End State vision is too restrictive. The letter transmitting the Policy and Guidance Document to the DOE Sites says comments must be back to DOE by January 31, 2003. (I did not see that transmittal letter.) Section 3 of the Guidance Document identifies completion of drafts of End State Visions by all DOE Sites by June 1, 2003 and Sites should have endorsement of these visions by regulators and stakeholders by September 1, 2003. I expect this guidance to change as a result of the comments received by various stakeholder groups and DOE internal review. It seems incredible that all of the Sites can have end state visions defined (by 6/1/03) and agreed to by regulators and Site Stakeholders by 9/1/03 schedule.	See general response to Recurring Issue/Concern #5.
Public-SRS-8	W. Lee Poe, Jr.	(cont.) The chance of the various DOE sites being able to accomplish this is highly variable. Sites set for closure by 2006 are in a much better position to meet this schedule than sites with ongoing missions. DOE schedule is much too restrictive for DOE Sites such as Savannah River Site (SRS). The schedule should include early and often participation with regulators and stakeholders as DOE develops the end state vision. The schedule presented should also be accomplishable. This is the only way DOE should expect to reach consensus on these visions.	"……"

Public-SRS-9	W. Lee Poe, Jr.	From reading the Policy and Guidance Document, I conclude that DOE is expecting to have a single end state condition. (See second bullet in Section 4.0) This single vision can be accomplished if the site is allowed to have different zones with potentially different land uses. Section 4.0, Guiding Principles, should allow this capability. At SRS during the next 50 years, there will be ongoing production, cleanup, decontamination and decommissioning, and end state determination activities within the same general sections of the site. This should be allowed.	DOE agrees that larger sites especially can have different zones with different land uses, and will clarify this point in the text.
Public-SRS-10	W. Lee Poe, Jr.	The fifth bullet in Section 4.0 Guiding Principles uses the term "transparent institutional controls". The intent of this is not clear. DOE needs a section defining terms like this.	See general response to Recurring Issue/Concern #3.
Public-SRS-11	W. Lee Poe, Jr.	The sixth bullet in Section 4.0 Guiding Principles mandates that stakeholders must be consulted. In this important effort, a broad spectrum of stakeholders should be consulted. This should be more than the DOE Citizens Advisory Boards. DOE should plan and conduct a wide assortment of varied public involvement of how the lands in their community will be left and how it should be used.	See general response to Recurring Issue/Concern #10.
Public-SRS-12	W. Lee Poe, Jr.	Section 5 Strategic Considerations says DOE internal planning should develop criteria for ' "pure" risk based end states'. The use of the term "pure" is unclear. What is the significance of this? These strategic considerations are important. The items in this section, listed as "DOE internal planning", should not be internal DOE issues. They should be discussed with regulators and stakeholders to reach broad consensus.	See general response to Recurring Issue/Concern #3. In addition, DOE recognizes that several of the strategic items may benefit from discussions with regulators and stakeholders.
Public-SRS-13	W. Lee Poe, Jr.	Shouldn't the section "End State Vision Considerations" be 6.0 not 5.0?	DOE appreciates the commenter's attention to detail.
Public-SRS-14	W. Lee Poe, Jr.	Sub paragraph 1 of End State Vision Consideration defines life cycle costs. Since the process for this may be very long (thousands of years), the section should define the time period and process for handling costs for these long times. Is discounting of costs an issue in these long	See general response to Recurring Issue/Concern #7.
Public-SRS-15	W. Lee Poe, Jr.	Add mention of surveillance and monitoring to sub paragraph 1 of End State Vision Consideration.	DOE will consider proposed edit.
Public-SRS-16	W. Lee Poe, Jr.	Sub paragraph 2 of End State Vision Consideration is poorly written. The example used does not help in the understanding. This section should be clarified.	There were a great many comments on this sub-paragraph and it will be re-written.

Public-SRS-17	W. Lee Poe, Jr.	Sub paragraph 6 of End State Vision Consideration should be reworked. I inferred, from reading the rest of this policy and Guidance Document, that DOE may be considering reaching agreement to change the normal reporting requirements of RCRA and CERCLA. If some of this is changed the normal reporting of RCRA and CERCLA may not be available. Also mentioned are enforceable documents needed for this exit strategy. I suggest that this section be rewritten to provide a clearer guidance on what is needed for accomplishing this strategy.	DOE has no specific plans to request changes in RCRA/CERCLA reporting. The sub-paragraph will be changed or deleted.
Public-SRS-18	W. Lee Poe, Jr.	A new Sub paragraph of End State Vision Consideration should be added to discuss the DOE position on illegal intervention onto and activities in areas controlled by Institutional Controls. These interventions may have adverse health effects. Many DOE requirements exist to analyze inadvertent intruders or subsistence farmers using the lands or groundwater in these controlled areas as part of establishing end use for the land. Compliance with Passive Institutional Controls is not expected to be perfect. DOE needs to provide guidance on how these conditions will be viewed for actions long into the future.	The comment is well taken. The issue of the enforceability of institutional controls over the long term will likely require continued partnerships with local governments since governing powers are vested at this level, especially for land use controls.
Public-SRS-19	W. Lee Poe, Jr.	Sub paragraph 8 of End State Vision Consideration discusses groundwater points of compliance. DOE's position on protecting groundwater aquifers that serve no source of drinking water for the land use proposed should be specified. Do we protect groundwater aquifers just to say they are protected? This subsections should be rewritten to include DOE's position on this issue.	DOE's position on this issue must be guided by EPA regulations, which appear consistent with the sense of the comment. Generally, drinking water standards should not be chosen as remedial goals for groundwater that is not a current or potential sources of drinking water. Where non-potable groundwater has been contaminated, some response action (e.g., source control, plume containment) may nonetheless be required since the non-potable source may discharge into drinking water sources or may be usable for livestock watering, irrigation,
Public-SRS-20	W. Lee Poe, Jr.	The inclusion of "future property owners" is inappropriate in Sub paragraph 9. How can DOE sites notify future property owners. At best they can document residual contamination risks in some public form. Requirements beyond that are unworkable. Correct this Sub paragraph so it says what is needed.	DOE agrees and will consider alternative wording to better clarify the intent.
Public-SRS-21	W. Lee Poe, Jr.	Section 7.0, Scope and Content, says the policy was dated March 30, 2002. Why was it delayed until the end of January before release for review?	The policy states March 2003, not 2002.
Public-SRS-22	W. Lee Poe, Jr.	The vision document (included in Section 7.0, Scope and Comment) should include discussion of end states of buildings or building remains planned to be left in and how protected. This is particularly important for surplus major production buildings like the five production reactors, the two separation plants and fuel and target facilities at SRS.	DOE agrees that in a comprehensive end state vision, major facilities will need to be addressed.

Public-SRS-23	W. Lee Poe, Jr.	The policy should require another document that provides summary information on all sources of potential risk at the DOE Site and references detailed documents which are available to the public. At present RCRA/CERCLA requires such documents to describe controls applied to protect the public from hazards, controlled under environmental regulations. These Land Use Controls (LUC) are identified in cleanup records of decisions (ROD). They require periodic review to ensure they remain protective. There are other hazards, not regulated by CERCLA or RCRA that DOE regulates. A document compiling all of these residual hazards and controls required to ensure the risk are acceptable should be available to the stakeholders and	DOE agrees such information would be useful indeed, and will consider requiring it as part of the end-state vision document for a site.

San Ildefonso Pueblo			
Public-San Ildefonso-1	San Ildefonso Pueblo	Any "cleanup" and "end state" should be monitored, and expected to need additional work in future generations to assure health and safe environment. See Working Paper on DOE trust responsibility to Indian tribes and long-term stewardship, 2002, citing the National Research Council report.	See general response to Recurring Issue/Concern #7.
Public-San Ildefonso-2	San Ildefonso Pueblo	Risk must be considered not just in the short term, but especially for future generations. For example, the radioactive waste facility at Los Alamos borders the congressionally-recognized San Ildefonso Sacred Area. DOE waste is stored in unlined pits and shafts, which were designed to be safe because they were perhaps 600 feet or more above the groundwater table, which connects to the Rio Grande. Regulators calculated in the 1990s that the facility had radioactive waste migrating about 200 feet below the surface. Since Los Alamos radioactive disposal began in the 1940s, in about 100 years we should expect direct transport and conductivity from the waste to the regional aquifer and the Rio Grande. San Ildefonso Pueblo lands in the Sacred Area already have measurable radioactivity from DOE operations. We see the risk possibly growing in the future, since the tritium detected may be the leading edge of heavier contaminants with much longer lasting risks to human health and environment.	DOE agrees that remedial actions need to be protective of future generations. DOE considers both the short-term and long-term health and environmental risks during the baseline risk assessment and remedy selection processes, consistent with the CERCLA/NCP/RCRA, and existing DOE policies/guidance. As part of our accelerated cleanup initiative, we are focusing our cleanup program to expedite risk-reduction activities at Los Alamos National Laboratory and other DOE sites.
Public-San Ildefonso-3	San Ildefonso Pueblo	Assured funding for perpetual institutional controls needs to be part of the policy and guidance. Recent history shows how quickly unfunded controls become overlooked or ignored.	See general response to Recurring Issue/Concern #7.
Public-San Ildefonso-4	San Ildefonso Pueblo	Lessons learned from Hanford about risk show the need to view the concept broadly, including tribal government rights as part of the considerations; that risk needs to be looked at for the short, medium and long term-- Washington notes that " near-term land use determinations or restrictions cannot be assumed to govern future generations."	See our response to San Ildefonso Pueblo-2 regarding long-term risks. We agree that cleanup decisions need to consider long-term risks and Tribal Government rights. Concerning Tribal government rights, DOE will continue to consult with Tribal governments to assure Tribal rights and concerns are considered prior to the Department taking actions that may affect Tribal governments.

Public-San Ildefonso-5	San Ildefonso Pueblo	Assume institutional controls and physical barriers will fail, says the National Research Council. End state decisions also need to analyze the implications of failure for physical barriers. The Los Alamos waste disposal assumption about separation from groundwater needs to be rethought in this light.	Containment technologies (e.g., engineered landfill covers), physical barriers, and institutional controls are an accepted remedy for short-term and long-term risk reduction under the cleanup regulations. The sufficiency of these remedial alternatives are fully evaluated during the remedy selection process and must meet certain criteria before they can be selected, including the ability to provide long-term protection to human health and the environment. In addition, as required by regulations, the performance of these remedies is closely monitored during long-term surveillance and monitoring activities to ensure that they are operating properly and successfully. Regarding the Los Alamos National Laboratory, DOE's field office will continue to seek input from Tribal Governments and other stakeholders during the remedy
Public-San Ildefonso-6	San Ildefonso Pueblo	Guidance 5.0 and the Policy need to add a requirement for developing a strategy which engages the natural resources trustees in determining end states. At Los Alamos, the Natural Resources Trustees Council (NTRC) requested an overall site assessment, in preference to the piecemeal approach, as recommended by the draft policy. That was done years ago, without response. Perhaps this new Policy will	See general response to Recurring Issue/Concern #4.
Public-San Ildefonso-7	San Ildefonso Pueblo	Actual land use, and effects on lands outside DOE property, need tribal and state involvement in developing the end state vision called for.	DOE agrees.
Public-San Ildefonso-8	San Ildefonso Pueblo	Scope. The Policy does not describe how to achieve the end state vision when a site has an ongoing mission. This is of concern for San Ildefonso and others affected by sites such as Los Alamos, which have ongoing missions. Coordinating the EM program work with other DOE missions needs to be addressed in the Guidance, and the Policy needs to expressly state that it applies to all DOE sites, including NNSA ones.	See Recurring Issue/Concern #5. In addition, your comment will be considered for the Corporate Strategy document.
Public-San Ildefonso-9	San Ildefonso Pueblo	Life Cycle Costs, Guidance 6.0. Funding for long-term activities such as environmental monitoring and institutional controls needs to be addressed in the Policy. Standard "present value" calculations do not provide sufficiently useful guidance when the length of concern is measured in generations rather than decades. San Ildefonso Pueblo expects DOE funding to continue for monitoring so long as a waste facility exists and risk of contamination remains.	See response to Recurring Issue/Concern #6.

Public-San Ildefonso-10	San Ildefonso Pueblo	What is a "pure" risk based end state? This term needs to be clarified.	See response to Recurring Issue/Concern #3.
Public-San Ildefonso-11	San Ildefonso Pueblo	Schedule Requirements, Guidance 3.0. The timelines seem very optimistic.	See response to Recurring Issue/Concern #10.
Public-San Ildefonso-12	San Ildefonso Pueblo	6.0 End State Vision Considerations. 2. The "end state" begins when a steady state in the remedy is achieved. This means that the tool is in place but the job is not done. We are very concerned that a planned "remedy" may not turn out to be the workable solution desired. DOE cannot avoid its responsibilities for health and safety by showing a system is "operating as designed". We have seen where the design itself does not adequately address the true risks.	As indicated in the draft Guidance, DOE recognizes that cleanup goals are not met by simply having deployed a remedial technology. During environmental surveillance and maintenance, the remedial technology will be subject to frequent reviews in accordance with regulatory requirements to ensure cleanup goals are being met for long-term protection of public health and the environment.
Public-San Ildefonso-13	San Ildefonso Pueblo	Minimize the creation of new waste disposal sites. San Ildefonso supports this. In fact, we continue to urge DOE to remove the Los Alamos waste disposal facility. It is relatively small, and located in a place that would not meet current standards for locating one. The risk we perceive to our future generations using our Sacred Area will be significantly reduced by removing the radioactive waste from Los Alamos, following the transportation protocols developed by DOE.	The LANL LLW disposal facilities have been in operation since 1957, and so are not new. The facilities are needed to support DOE missions at LANL.
Public-San Ildefonso-14	San Ildefonso Pueblo	Tribal governments need to be added to the list of "stakeholders and regulators" mentioned in Guidance 4.0.	See Recurring Issue/Concern #10.
SRS Citizens Advisory Board			
Public-CAB (SRS)-1	#1 Commenter	I like the proposed End State Vision very much, but it needs help in three areas. Of course, it will matter little if not implemented with regulators and public (Development of Risk-based End State Visions): (1) Page 2: Risk-based initiatives should be based on cost benefit analyses, where the benefit is the risk reduction for a specific initiative.	DOE agrees.

Public-CAB (SRS)-2	#1 Commenter	(2) Life cycle costs should be based on the "per unit of risk reduced." That way poor decisions like the reduction of tritium at F & H Seepage Basins by decay – re-injection processes when contrasted against the zero risk reduction it affords become exponentially expensive projects, which of course is the point, illustrating well those projects that should not have been undertaken in the past.	DOE agrees. However, remedial selection decisions must account for more than just readily quantified cost/benefit considerations.
Public-CAB (SRS)-3	#1 Commenter	(3) The vision includes regulators but ignores the public, a much more important contingent; all decisions for risk-based analyses should include public review not only to improve decisions made by DOE but also to educate the public;	DOE agrees and did not intend to exclude any affected stakeholders.
Public-CAB (SRS)-4	#1 Commenter	Much depends on DOE's credibility; if the End State Vision is just another plan that will cause a lot of noise but have no ultimate effect on the actual cleanup projects or their priorities, it will not serve DOE's nor the regulator's and public's interests.	DOE agrees and intends to institutionalize end state visions by incorporation into site baselines and PMPs once regulatory approval on changes to the current cleanup plan is obtained.
Public-CAB (SRS)-5	# 2 Commenter	DOE Policy Draft – Cleanup Driven by Risk-Based End States Please consider adding under page 2, "POLICY", first paragraph, fourth line: Sites should (add) "translate or conform existing data on risk type, intensity, location, volume, risk reduction period into (generally) comparable units to facilitate integration of risk data across a site." Rationale – once compiled, a risk "map" or picture could more easily indicate best future land use and risk reduction priorities. This conformance (or identification of risks by areas, if not yet ascertained) should occur before the end state vision is set and before determining redesign activities to achieve the end state vision.	DOE intends to include "risk maps" in the site vision document.
Public-CAB (SRS)-5	# 2 Commenter	(cont.) The above conforming task underpins or supports the second "requirement" under POLICY which states: "End states, including the selected remedies, must be based on an integrated site-wide perspective (including the current and future use of surrounding land), rather than on isolated operable units or release sites."; i.e., an integrated picture of the current risks is a precursor to an integrated perspective of future land use and later of clean-up strategies and remedies. Such a "risk" map (or series of overlays) could also contribute to: documenting "the final anticipated risk-based condition that drive a cleanup decision or activity." (Part of requirement three under POLICY) and providing an overview of "where" and "how we are to manage the impacts of future risks and vulnerabilities…(Policy requirement seven).	

Public-CAB (SRS)-6	# 2 Commenter	At this time, this writer has only an “editing” suggestion to re-position sections of Subject Guidance in the following manner: After 3.0. Schedule Requirements, insert current 7.0 Scope and Content as section 4.0 thereby moving Guiding Principles to section 5.0, Strategic Considerations to section 6.0 and End State Vision Considerations to 7.0. If the above change is made, then the Executive Summary should also conform. (Scope after schedule, followed by principles, strategies and considerations).	DOE will consider proposed edits.
Public-CAB (SRS)-7	#3 Commenter	Savannah River Site all 310 square miles should remain in government ownership for perpetuity and under one department’s control for best management practices. The industrial area could be leased to similar business but all industry should remain in the center acreages as it is now. It is paramount that the entire buffer zones remain as is presently designated to continue the various Universities’ research and to protect the area residents especially in these times of the threat of terrorist attacks. The footprint for the SRS should NOT be reduced. It may be necessary for some building to be demolished and removed because of age and cost of maintenance for LTS which would in that way reduce SRS footprint. The Forest Service could continue to bring income to the government to help balance costs for maintaining the property in government control. It is also necessary to retain all of this 310 square miles as it would be almost impossible to duplicate anywhere else and is needed for safety of the American people and future needs the	See general response to Recurring Issue/Concern #8.
Public-CAB (SRS)-8	#3 Commenter	Money must be returned to the budget for LEADING UP TO AND INCLUDING LTS. IT IS IMPERATIVE TO MAINTAIN ENGINEERING AND INDUSTRIAL CONTROL, even if limited now but this will be an increasing necessity as we clean up faster.	See general response to Recurring Issue/Concern #8.
Public-CAB (SRS)-9	#3 Commenter	The management of records is of utmost importance to present and future employees and the general public as well as historians. Many workers are nearing retirement age and it is essential new employees know what and where residual hazards are and what must be done to maintain security and prevent future problems.	DOE agrees. See chapter 7 of "Long-Term Stewardship Study".

Public-CAB (SRS)-10	#3 Commenter	Maintaining the references, records and assigned responsibilities should be assigned to one governmental agency and the public notified where all records can LOCALLY be viewed. Individuals, workers and interested groups need to know who is responsible for what and know that required actions are being maintained as previously specified. Communication of this nature is essential for good accountability not only to the stakeholders but also to the workers and regulators. It is necessary, not essential; that records be in print because technology will change over the years as it has in the past and may not be electronically available in another ten years.	DOE agrees. See chapter 7 of "Long Term Stewardship Study".
Public-CAB (SRS)-11	#3 Commenter	All LTS discussions and proposed decisions should have public input from LOCALLY AFFECTED areas and not from just the general areas of Aiken SC and Augusta, GA.	See general response to Recurring Issue/Concern #10.
Public-CAB (SRS)-12	#3 Commenter	My deepest concern is groundwater contamination and its entry eventually into the Savannah River, which is our drinking water source. It is the government's responsibility to protect the public and our water	DOE understands this concern. Water-supply protection is one of our priorities.
Public-CAB (SRS)-13	#4 Commenter	1) The term "Risk Based End State" is confusing. What is the significance of a risk based End State? I suspect this is jargon or a catchy name. Parts of that buzz phrase, when used separately, carry important meaning to DOE. The end state is how the various facilities and operable units will be left after cleanup for planned future use of the facility or land it occupies. (DOE defines what they mean in the last paragraph of Section 1.0 Introduction in the Guidance Document.) A clear statement of DOE plans is in the first paragraph of the Implementation section of the Policy. DOE is probably trying to develop an end state policy that will provide acceptable risk to receptors. I suggest deleting the term "risk based" from the title of the two documents and explaining how risks will be measured and what is acceptable risk in the policy and guidance document. Minimize the use of risk based end state in the report.	See general response to Recurring Issue/Concern #3.
Public-CAB (SRS)-14	#4 Commenter	2) A decision on what vision DOE has and is using for end state of the various facilities and operable units is vital to provide cost effective cleanup. I applaud DOE's beginning recognition of this need and initiation of the process to achieve an end state vision. The three paragraphs of the Implementation section of the policy describe the actions DOE expects, I fully accept this vision. Unfortunately this clarity is not achieved in the remainder of the two documents.	DOE will try to achieve same level of clarity in remainder of two documents.

Public-CAB (SRS)-15	#4 Commenter	3) DOE identifies "three primary components that must be considered in the analysis of end state risk: the expected land use, the remaining hazards, and the primary receptors" in the last sentence of Section 1.0 of the guidance document. The same paragraph defines risk as "risk to human health and the environment after remediation is complete". DOE is clearly defining the proper conditions for this policy and guidance document.	Thank you.
Public-CAB (SRS)-16	#4 Commenter	4) The schedule for completion of development of this policy and its definition of the End State vision is too restrictive. The letter transmitting the Policy and Guidance Document to the DOE Sites says comments must be back to DOE by January 31, 2003. (I did not see that transmittal letter.) Section 3 of the Guidance document identifies completion of drafts of End State Visions by all DOE Sites by June 1, 2003 and Sites should have endorsement of these visions by regulators and stakeholders by September 1, 2003. I expect this guidance to change as a result of the comments received by various stakeholder groups and DOE internal review. It seems incredible that all of the Sites can have end state visions defined (by 6/1/03) and agreed to by regulators and Site Stakeholders by 9/1/03 schedule.	See general response to Recurring Issue/Concern #5.
Public-CAB (SRS)-16	#4 Commenter	(cont.) The chance of the various DOE sites being to accomplish this is highly variable. Sites set for closure by 2006 are in a much better position to meet this schedule than sites with on-going missions. DOE schedule is much too restrictive for DOE Sites such as Savannah River Site (SRS). The schedule should include early and often participation with regulators and stakeholders as DOE develops the end state vision. The schedule presented should also be accomplishable. This is the only way DOE should expect to reach consensus on these visions.	
Public-CAB (SRS)-17	#4 Commenter	5) From reading the Policy and Guidance Document, I conclude that DOE is expecting to have a single end state condition. (See second bullet in Section 4.0.) This single vision can be accomplished if the site is allowed to have different zones with potentially different land uses. Section 4.0, Guiding Principles, should allow this capability. At SRS during the next 50 years, there will be ongoing production, cleanup, decontamination and decommissioning, and end state determination activities within the same general sections of the Site. This should be allowed.	DOE agrees that at a large site like SRS different land use visions are appropriate for different parts of the site.
Public-CAB (SRS)-18	#4 Commenter	6) The fifth bullet in Section 4.0 Guiding Principles uses the term "transparent institutional controls". The intent of this is not clear. DOE needs a section defining terms like this.	See general response to Recurring Issue/Concern #3.

Public-CAB (SRS)-19	#4 Commenter	7) The sixth bullet in Section 4.0 Guiding Principles mandates that stakeholders must be consulted. In this important effort, a broad spectrum of stakeholders should be consulted. This should be more than the DOE Citizens Advisory Boards. DOE should plan and conduct a wide assortment of varied public education to allow sufficient public involvement of how the lands in their community will be left and how it should be used.	See general response to Recurring Issue/Concern #10.
Public-CAB (SRS)-20	#4 Commenter	8) Section 5 Strategic Consideration says DOE internal planning should develop criteria for “pure risk based end states”. The use of the term “pure” is unclear. What is the significance of this? These strategic considerations are important. The items in this section, listed as “DOE internal planning”, should not be internal DOE issues. They should be discussed with regulators and stakeholders to reach broad consensus?	See general response to Recurring Issue/Concern #3. In addition, DOE recognizes that several of the strategic items may benefit from discussions with regulators and stakeholders.

Public-CAB (SRS)-21	#4 Commenter	9) Shouldn't the section "End State Vision Considerations" be 6.0 not 5.0?	DOE appreciates the commenter's attention to detail.
Public-CAB (SRS)-22	#4 Commenter	10) Sub paragraph 1 of End State Vision Consideration defines life cycle costs. Since the process for this may be very long (thousands of years), the section should define the time period and process for handling costs for these long times. Is discounting of costs an issue in these long	See general response to Recurring Issue/Concern #7.
Public-CAB (SRS)-23	#4 Commenter	11) Add mention of surveillance and monitoring to sub paragraph 1 of End State Vision Consideration.	DOE will consider proposed edit.
Public-CAB (SRS)-24	#4 Commenter	12) Sub paragraph 2 of End State Vision Consideration is poorly written. The example used does not help in the understanding. This section should be clarified.	There were many comments on this sub-paragraph. DOE will re-visit wording.
Public-CAB (SRS)-25	#4 Commenter	13) Sub paragraph 6 of End State Vision Consideration should be reworked. I inferred, from reading the rest of this policy and Guidance Document, that DOE may be considering reaching agreement to change the reporting requirements of RCRA and CERCLA. If some of this is changed, the normal reporting of RCRA and CERCLA may not be available. Also mentioned are unenforceable documents needed for this exit strategy. I suggest that this section be rewritten to provide a clearer guidance on what is needed for accomplishing this strategy.	DOE does not have the authority to change RCRA/CERCLA reporting requirements. Wording will be clarified.
Public-CAB (SRS)-26	#4 Commenter	14) A new Sub paragraph of End State Vision Consideration should be added to discuss the DOE position on illegal intervention onto and activities in areas controlled by Institutional Controls. These interventions may have adverse health effects. Many DOE requirements exist to analyze inadvertent intruders or subsistence farmers using the lands or groundwater in these controlled areas as part of establishing end use for the land. Compliance with Passive Institutional Controls is not expected to be perfect. DOE needs to provide guidance on how these conditions will be viewed for actions long into the future.	The comment is well taken. The issue of the enforceability of institutional controls over the long term will likely require continued partnerships with local governments since governing powers are vested at this level, especially for land use controls. It remains to be worked out how a federal agency like DOE can best work out the controls at a local level.
Public-CAB (SRS)-27	#4 Commenter	15) Sub paragraph 8 of End State Vision Consideration discusses groundwater points of compliance. DOE's position on protecting groundwater aquifers that serve no source of drinking water for the land use proposed should be specified. Do we protect groundwater aquifers just to say they are protected? This subsection should be rewritten to include DOE's position on this issue.	DOE's position on this issue must be guided by EPA regulations, which appear consistent with the sense of the comment. Generally, drinking water standards should not be chosen as remedial goals for groundwater that is not a current or potential sources of drinking water. Where non-potable groundwater has been contaminated, some response action (e.g., source control, plume containment) may nonetheless be required since the non-potable waters may discharge into drinking water sources or may be usable for livestock watering, irrigation,

Public-CAB (SRS)-28	#4 Commenter	16) The inclusion of “future property owners” is inappropriate in Sub paragraph 9. How can DOE sites notify future property owners. At best they can document residual contamination risks in some public form. Requirements beyond that are unworkable. Correct this Sub paragraph so it says what is needed.	DOE agrees and will consider alternative wording to better clarify the intent.
Public-CAB (SRS)-29	#4 Commenter	17) Section 7.0, Scope and Content, says the policy was dated March 30, 2002. Why was it delayed until the end of January before release for review?	The policy states March 2003, not 2002.
Public-CAB (SRS)-30	#4 Commenter	18) The vision document (included in Section 7.0, Scope and Comment) should include discussion of end states of buildings or building remains planned to be left on the DOE Sites and the vision of what condition they will be left in and how protected. This is particular important for surplus major production buildings like the five production reactors, the two separation plants and fuel and target facilities at SRS.	DOE agrees that in a comprehensive end state vision, major facilities will need to be addressed.
Public-CAB (SRS)-31	#4 Commenter	19) The policy should require another document that provides summary information on all sources of potential risk at the DOE Site and references detailed documents which are available to the public. At present RCRA/CERCLA requires such a document to describe controls applied to protect the public from hazards, controlled under environmental regulations. These Land Use Controls (LUC) are identified in cleanup records of decision (ROD). They require periodic review to ensure they remain protective. There are other hazards, not regulated by CERCLA or RCRA that DOE regulates. A document compiling all of these residual hazards and controls required to ensure the risks are acceptable should be available to the stakeholders and potential land owners (see comment 16).	DOE agrees such information would be useful indeed, and will consider requiring it as part of the end-state vision document for a site.

Seneca Nation			
Seneca Nation-1	Lisa Maybee	The Purpose and Scope Section should include a definition of "risk", and "risk-based". These definitions should be developed with the input of the tribal nations, regulators, and other stakeholders.	See response to Recurring Issue/Concern #3.
Seneca Nation-2	Lisa Maybee	The last paragraph of the Background section refers to a lack of trust. With whom does this lack of trust reside and how does this approach restore trust?	See response to Recurring Issue/Concern #1 regarding planned changes to the Background section of the Policy. One purpose of the draft language in the Background section was to emphasize that the Environmental Management program needs to become a better customer to the American taxpayer, stakeholders, and States in delivering more real risk reduction and accelerated cleanup. DOE believes that the development of end-state visions and other DOE cleanup reform
Seneca Nation-3	Lisa Maybee	The first paragraph of the Policy section states that sites should redesign their cleanup activities to achieve the risk-based end state vision in order to "do it right and completely the first time". However, the end state "vision" must be preceded by an accurate characterization of the levels, locations, movement, types, and chemistry of the contaminants present at the site. The last sentence of this paragraph says the designed remedy should not unnecessarily exceed its clean up goal. It should be the policy of the Department of Energy to always meet or exceed its clean up goals, thus "doing it right and completely the first time".	The use of the term "unnecessarily exceed" does not imply a lack in the DOE's commitment to protect human health and the environment. It simply means that DOE should not exhaust finite resources–which could then be used to accelerate other risk-reduction/cleanup projects–to exceed regulatory standards when there is no added value in doing so (e.g., no reduction in risk). Clearly, there may be situations where it makes sense to exceed the regulatory standards (e.g., eliminates need for long-term stewardship), and the Policy/Guidance did not
Seneca Nation-4	Lisa Maybee	Third bullet-this statement says that the end state is based on the intended land use. Potential future use of a site should be considered in developing the end state; however, future use should not be the only consideration or determine the acceptable level of cleanup. If a greater level of clean up is achievable, there is not need to pre-determine that a site's future use shall be industrial and thus settle for a minimal amount of clean up.	As indicated in our response to Seneca Nation-3, there are factors other than land use (e.g., reduced lifecycle costs) that DOE does consider in conducting cleanup. DOE agrees to consider, on an exception basis, opportunities to remediate sites to less restrictive uses for relatively small incremental costs.
Seneca Nation-5	Lisa Maybee	Last bullet-if cleanup is completed, there is no need for a contingency plan. A contingency plan would be needed if a site is not cleaned up and wastes instead are stabilized or left in place. Change end of sentence to "…in the event that site conditions change where contaminants remain."	See response to Recurring Issue/Concern #3.
Seneca Nation-6	Lisa Maybee	In the first paragraph of the Implementation section, will a standardized set of risk-based principles be developed for the site's use?	DOE is preparing tools for sites to help them develop and implement end state visions, which may include risk analyses and logic tools. These tools will be included in the final Guidance Document.
Seneca Nation-7	Lisa Maybee	Executive Summary, first paragraph-The Department of Energy should always meet or exceed its clean up goals.	See Seneca Nation-3 response.

Seneca Nation-8	Lisa Maybee	Section 1.0, second paragraph-According to the DOE Office of Engineering and Construction Management, the Department of Energy does not actually own property. The Department may have control and custody of a property, but the titles are held by the United States government, mainly through the Bureau of Land Management. Change sentence to say "The land use includes property that the Department may continue to manage..." It is imperative that the DOE involve the tribal nations, stakeholders and regulators in end-state decisions that will affect the land that is really owned "by the people and for the people".	DOE agrees. Also see general response to Recurring Issue/Concern #10.
Seneca Nation-9	Lisa Maybee	Section 2.0, first paragraph-Coordination may also include the U.S. Nuclear Regulatory Commission.	DOE agrees. The NRC has reviewed and commented on the draft Policy and Guidance.
Seneca Nation-10	Lisa Maybee	Section 3.0-Given the various regulatory situations of all the sites, this should be a proposed schedule. Consultations with tribal governments will have to occur in the development of the End State Visions, per Executive Order 13175 or Consultation and Coordination with Indian Tribal Governments, and Executive Memorandum of April 29, 1994, on Government-to-Government Relations With Native American Tribal Governments. These consultations and provisions of NEPA need to be built into the schedule. Review and comment is not a substitution for consultation.	See general response to Recurring Issue/Concern #5.
Seneca Nation-11	Lisa Maybee	Section 4.0, third bullet-This statement says that the end state is based on the intended land use. Potential future use of a site should be considered in developing the end state; however, future use should not be the only consideration or determine the acceptable level of cleanup. If a greater level of clean up is achievable, there is no need to pre-determine that a site's future use shall be industrial and thus settle for a minimal amount of clean up.	As indicated in our response to Seneca Nation-3, there are factors other than land use (e.g., reduced lifecycle costs) that DOE does consider in conducting cleanup. DOE agrees to consider, on an exception basis, opportunities to remediate sites to less restrictive uses for relatively small incremental costs.
Seneca Nation-12	Lisa Maybee	Last bullet-If cleanup is completed, there is no need for a contingency plan. A contingency plan would be needed if a site is not cleaned up and wastes instead are stabilized or left in place. Change end of sentence to "…in the event that site conditions change where contaminants remain."	See response to Recurring Issue/Concern #3.

Seneca Nation-13	Lisa Maybee	Section 5.0, first paragraph-The last sentence says that sites with negotiated and approved Records of Decisions and clean up criteria should plan internally before approaching the regulators about implementing the policy and this guidance. It is probably that changing negotiated and approved Records of Decision and clean up criteria will not accelerate clean up, since this would require re-scoping, re-planning, another round of stakeholder review, re-negotiation and re-approval, not to mention potential lawsuits. It would seem to be more prudent to move forward with negotiated and approved Records of Decision and clean up criteria.	DOE agrees that revisiting approved RODs may be difficult. However, in some cases, the end-state vision may show that an approved ROD is inconsistent with future land use or other considerations developed by the end-state visions. DOE believes, if such cases exist, the cleanup activities must be consistent with the end state vision and, therefore, may have to be revisit previously approved RODs or agreements.
Seneca Nation-14	Lisa Maybee	What exactly is a "pure" risk-based end state?	This term will be deleted.
Seneca Nation-15	Lisa Maybee	If the original cleanup criteria are protective of people and the environment, why should they be changed?	DOE believes that it must be conscientious about spending tax payers money. If appropriate protection to public and the environment can be provided with significant less costs, DOE will consider the changes.
Seneca Nation-16	Lisa Maybee	Last paragraph-we agree totally that the cost of long-term stewardship must be weighed against the short-term goal of meeting a deadline for achieving a desired end state.	Thank you.
Seneca Nation-17	Lisa Maybee	Section 6.0, first sentence. There are nine considerations in preparing a site's risk-based end state vision: Consideration 2: Should state that the end state may include long-term stewardship and institutional controls.	See general response to Recurring Issue/Concern #3.
Seneca Nation-18	Lisa Maybee	Consideration 3: Insert "Tribal", after Federal agency.	See general response to Recurring Issue/Concern #3.
Seneca Nation-19	Lisa Maybee	Consideration 6: What do the NRC regulations state?	See general response to Recurring Issue/Concern #3.
Seneca Nation-20	Lisa Maybee	Consideration 8: What is a groundwater "point of compliance"?	See general response to Recurring Issue/Concern #3.
Seneca Nation-21	Lisa Maybee	Consideration 9, second sentence. The need to inform future property owners of any residual contaminant risks seems to contradict the policy principle of achieving minimal risk per intended land use.	See general response to Recurring Issue/Concern #3.
Seneca Nation-21	Lisa Maybee	Section 7.0. Does this describe the scope and content of the document for each site? Is the vision document a NEPA document?	The scope and content outline is a recommended outline (draft) for each site in developing the end state vision document. The vision document is not a NEPA

Seneca Nation-22	Lisa Maybee	The documents state that the Department will comply with the requirements of the nation's environmental laws and regulations. Nowhere in the documents is there mention of the National Environmental Policy Act (NEPA), much less how NEPA will be integrated into the development of the definition of risk, the development of acceptable end states, or the implementation of the "risk-based end state vision". As you know, the requirements of NEPA are mandatory for federal agencies. Section 102(2) contains "action-forcing" provisions to make sure that the federal agencies act according to the letter and spirit of NEPA. How does this guidance document or the policy statement reflect the letter and spirit of Title I of NEPA?	See general response to Recurring Issue/Concern #4.
Seneca Nation-23	Lisa Maybee	The predecisional drafts emphasize clean up and corrective actions that occur or will occur under the US Environmental Protection Agency. However, clean up at the West Valley Demonstration Project, and potentially at other sites, will be regulated by the US Nuclear Regulatory Commission. The guidance document should include a balanced discussion of regulatory scenarios.	The draft guidance and policy focused on CERCLA and RCRA since they drive the majority of the DOE cleanup projects. However, DOE recognizes there are other regulatory drivers, and that the NRC's decommissioning criteria are applicable at West Valley.
Seneca Nation-24	Lisa Maybee	The policy and the guidance document would both benefit from a definition of "risk" and "risk-based". These definitions MUST be developed in consultation with the tribal nations and with the input of the regulators and other stakeholders. What level of risk is acceptable? How is the end state based on risk? How is a risk-based end state comparable to the concept of clean up plus "as low as reasonable achievable" (ALARA)?	See response to Recurring Issue/Concern #3 concerning the definition of risk and risk-based end state. The intent of the Policy and Guidance is not to determine what level of risk is acceptable. This will continue to be determined in accordance with applicable laws, regulations, license requirements or other requirements. The end-state is a description of a site's physical condition upon completion of cleanup. This end-state vision can then be considered in the remedy selection process, including the establishment of risk-based cleanup criteria. Radiological cleanup criteria (e.g., dose levels) may use an ALARA process that has as its objective the attainment of dose levels as far below the limits as social, technical,
Seneca Nation-25	Lisa Maybee	Generally, the clean up standards set by the EPA and NRC are based on science that determines a level of protection for the health and safety of the potential receptors. What is wrong with this approach? Why is DOE's proposed risk-based end state scenario a better solution? How is the proposed approach beneficial to tribal nations, regulators, and stakeholders?	DOE agrees that the EPA and NRC cleanup standards are based on science and policy judgements, and DOE did not suggest there is something wrong with the approach. DOE believes the RBES approach will lead to more focused cleanups by more closely aligning cleanup levels with reasonably anticipated future uses.

Seneca Nation-26	Lisa Maybee	In conclusion, we are supportive of any effort by DOE or any other federal agency that is truly protective of human and environmental health and well being; that achieves as much as possible in the short-term (i.e., in this generation) in order to minimize or eliminate long-term impacts to future generations; and which involves consultation from tribal governments, whose people often have the most at stake in these	DOE agrees with the sense of the comment and appreciates the support of its efforts.
Shoshone-Bannock Tribe			
Public-Shoshone-Bannock-1	Shoshone-Bannock Tribe	With the "Cleanup Program Driven by Risk-Based End States" program the DOE program needs to be very aware or consider Tribal treaty rights when making these provisions for clean up. Discussing them and placing them into documents along with other stakeholder involvement is fine but go further and continue early intervention and dialogue, respective consultation and commitment of trust responsibility with respective Tribes. The end states concept has had a long range plan at one time but now has been accelerated and we feel that based on time and funding the cleanup with not be cleanup but "stabilization" and areas may be left with radioactive and hazardous waste contamination left in place.	Consistent with existing DOE policy, DOE will continue to consult with Tribal governments to assure Tribal rights and concerns are considered prior to the Department taking actions that may affect Tribal governments. DOE will continue to seek input from Tribal governments and other stakeholders in considering remedial alternatives during the site-specific remedy selection and approval process. For some sites, on-site management of contaminants may be the most practical or effective method to protect human health and the environment, as provided for by the cleanup regulations. Also, see general
Public-Shoshone-Bannock-2	Shoshone-Bannock Tribe	Policy: One of our concerns is, have all the hazards been identified at facilities and does the DOE have all records of past operations, missions, and technology over the lifetime of the facilities. When DOE ensures that they will focus on cleanup efforts based on clearly defined risked based end states, it will be expected of DOE to commit to that statement and not any less. We also feel that DOE must meet that statement goal and not redefine or change during the cleanup phase of operations. In the past there have been various terms or statements given by DOE identifying cleanup strategies and methods such as the one now "do it right and completely the first time" that is fine but we all know that it will change later.	DOE believes that most of the hazards at DOE sites have been identified and it has applicable records of past operations and missions. DOE is committed to focusing cleanup efforts on clearly defined risk-based end state.
Public-Shoshone-Bannock-3	Shoshone-Bannock Tribe	With cleanup and new missions within DOE complex it will always be subject to change. Mission changes depend a lot on political aspects within our individual states, our nation, and international affairs. Within the Idaho complex recently there has been a reduction in the workforce and with that a loss of facility, operational, historical and technological information that is very crucial to cleanup efforts. I believe that it will be difficult to identify what the end state would be without very serious research and application.	DOE agrees with these statements and hopes that the Shoshone-Bannock will participate in the process of defining the end state.

Public-Shoshone-Bannock-4	Shoshone-Bannock Tribe	The directives and policies that are communicated from headquarters to the area field offices are defined as clearly as it can be from the headquarter standpoint, one thing that needs to be considered and remains to be implemented is that they from headquarters need to visit their respective sites and field offices to see what actually needs to take place to put these policies and directives in place. This would give them an understanding and respect for what has to be accomplished when they direct the cleanup plans for these sites. Headquarters also need to understand what the area was like before many of these sites were developed and the respect for what the land and area was used for prior to development and then they can determine what the end state would be. Basically DOE can provide all of the language it can to convey the message of cleanup but for all of us we would like to see it accomplished with actions and results.	DOE agrees with your concern that the cleanup program needs to deliver actions and results. For this very reason, a top priority of the DOE for the past eighteen months has been to refocus and reform the cleanup program to deliver real risk-reduction and cleanup quicker and more efficiently. DOE believes that the development of end-state visions is an important component to achieving those goals for long-term protection of human health and the environment. As part of the cleanup reform initiatives, DOE staff from headquarters and field offices have been very active in visiting sites, reviewing cleanup progress, and assessing strategies for accomplishing accelerated cleanup. We will continue to work with Tribal governments, local communities, and
Siegal, Lenny (CPEO-MEF)			
CPEO-MEF(1)-1	Lenny Siegal	On the surface, some of the concepts in these documents sound good. In practice, however, implementation could mean the large-scale adoption of containment remedies at locations where treatment or removal might better protect public health and the environment. The Policy, "Cleanup Driven by Risk Based End States," explains, "The single most significant change that we can make is to focus the program on goals that are clearly articulated and technically defensible and achievable. Those goals must be grounded in where we want to be at the end of the cleanup effort, and not on interim milestones or conditions that are continually subject to change."	DOE agrees that continued management will be necessary where contaminants remain above levels that allow unrestricted use of the property. See general response to Recurring Issue/Concern #8 for further discussion related to this comment.
CPEO-MEF(1)-2	Lenny Siegal	(cont.) The documents call for the development of a "risk-based end state vision," in consultation with regulators, Tribal Nations, and other stakeholders. Then site officials are to "redesign their cleanup activities to achieve that vision." The Policy compares the new initiative to other efforts such as Risk-Based Corrective Action, Brownfields, and U.S. EPA's One Cleanup Program Initiative. I have long believed that federal cleanup programs that move from documentary milestone to documentary milestone fail to see the forest for the trees. As some in the Air Force suggest, it makes sense to “begin with the end in mind."	"……"

CPEO-MEF(1)-3	Lenny Siegal	(cont.) But massive, complex, and secretive nuclear weapons plants are not ideal candidates for risk-based cleanup. They are not like gas stations, plating shops, or drum collection sites. Remedies that focus on interrupting pathways tend to be successful where the risk is minor in the first place, migration is unlikely, or the hazard can be expected to attenuate on its own. At major nuclear weapons facilities, however, long-lived radionuclides, massive solvent plumes, and unknown or unusual contaminants are likely to remain in place for a very long time. Remedies that contain contaminants, stabilize them, or interrupt pathways may in places be unavoidable, but in general they will be continuously at risk of catastrophic breakdown.	"……"
CPEO-MEF(1)-4	Lenny Siegal	(cont.) The Energy Department Policy barely recognizes this challenge: "When contaminants are expected to persist but can be isolated, risk concepts should include effective and transparent institutional controls to maintain isolation. Long term monitoring and surveillance methods must be designed to assure that the contaminants remain sequestered and human health and the environment are protected."	"……"
CPEO-MEF(1)-5	Lenny Siegal	Long-term monitoring is essential, to be sure, but monitoring can only predict or discover the breakdown of remedies. The Energy Department must continue to explore better ways to treat and control contamination to minimize the chance of failure. Over the life of its contaminants, people and ecosystems are likely to be exposed, so remedies should deal with the hazards, not just the pathways. Even in areas declared "national sacrifice zones" because there is apparently no way to eliminate the hazards, active cleanup should continue. Developing cleanup strategies based upon an end-state vision is a good idea, as long as that vision is not based upon ignoring serious, persistent hazards because there is no significant immediate risk.	DOE agrees with the potential benefit of continuing to pursue cost effective remediation technologies. See general response to Recurring Issue/Concern #9 for further discussion related to this comment.

Simpson, Daniel			
Daniel Simpson-1		Submission of draft study from 1995 performed under a DOE Hanford contract (Hanford Environmental Cleanup Specification) for relevancy to the Draft Policy and Guidance.	The roughly 20-page specification (not shown) covers a number of topics of relevance to the current effort on RBES, including environmental and radiation risk standards, time horizons of concern, cost-benefit matters such as economic values of exposure, and others related to land use management. Apparently, the study was undertaken as part of a drive toward a national consensus cleanup standard in the mid-1990s. In this regard, DOE notes that federal and state standards (i.e., ARARs) are determined on a site-by-site basis consistent with the NCP requirements for remedy selection, or, site-
State and Tribal Government Working Group			
STGWG-1		DOE needs to understand what exists and is working at each site before instituting change. STGWG members disagree with the stated problem that the proposal attempts to address. Most commenters feel that the proposed approach denigrated past and existing efforts towards remediation at the sites. Most commenters stated that current cleanup agreements were risk based and focused on balancing cleanup needs with funding availability. It is noted that while agreements worked for cleanup-specific activities when funding commitments were kept by DOE, sitewide decisions and planning are not necessarily integrated among EM and non-EM DOE organizations.	DOE agrees that it must understand what exists and is working at its sites. Toward this end, in January 2003 DOE did conduct a "current state" assessment using a survey questionnaire, review of site-specific documents, and discussions with site representatives. DOE agrees that planning can be better integrated among its various organizations. See general response to Recurring Issue/Concern #1.
STGWG-2		Where a clear national and local DOE vision for the future of a site does not exist, DOE needs to address this deficiency prior to implementing the end state process. One of the Top-to-Bottom Review recommendations is for EM to aggressively divest its responsibilities for non-EM sites and activities. Therefore, even at currently EM-owned sites, transition to another entity is expected, and the end state concept is broader than the EM responsibilities for virtually all sites. It is noted by many commenters that integration of EM and non-EM DOE planning and decisions has been, at best, sketchy, and the more aggressive transition of sites out of EM requires a significant acceptance of the end state vision from the receiver organizations, in addition to the intensive collaboration among EM, regulators, Tribes and other stakeholders.	See general response to Recurring Issue/Concern #5. DOE agrees that the risk-based end state cleanup is broader than the EM responsibility at many sites. The policy is applicable at most of the sites where cleanup is being conducted regardless of landlord program (e.g., EM vs. non-EM sites). Therefore, the policy is expected to be signed by the Secretary of Energy. Before the policy is finalized, it will be reviewed by the non-EM organizations.

STGWG-2		(cont.) For example, do non-EM DOE organizations concur with the Risk-Based End States policy and guidance? Several commenters feel that the lack of this vision nationally and locally is a barrier to the implementation of this policy in the time frames proposed. It may be appropriate to develop a more realistic schedule for implementation of the policy at each site once the issues raised by this and the preceding comment are addressed.	
STGWG-3		Several commenters feel that the lack of this vision nationally and locally is a barrier to the implementation of this policy in the time frames proposed. It may be appropriate to develop a more realistic schedule for implementation of the policy at each site once the issues raised by this and the preceding comment are addressed.	See general response to Recurring Issue/Concern #3.
STGWG-4		DOE needs to acknowledge that the process will comply with the requisite environmental laws, agreements and treaties, where appropriate. Commenters indicate concern that the proposed approach is in conflict with regulatory requirements and existing agreements. The current approaches are seen to be compliant, and the proposed changes must not create non-compliance. While much of this concern may be addressed through specific wording changes and clarity of terms, this approach is also seen by STGWG members as an opportunity for DOE to proactively acknowledge state, local and Tribal requirements, for example, the state environmental covenant laws and EM responsibilities to Tribes (described in the STGWG Working Paper, Long-Term Stewardship and Federal Trust Responsibility, December 2002).	See general response to Recurring Issue/Concern #1.

STGWG-5		The starting point for a risk based end state should be presumed as unrestricted use specific to the site (which may include hunting, gathering or other Tribal uses). Existing regulatory processes allow the use of remedies based on management controls in defined circumstances. A basis for risk less stringent than unrestricted use requires an affirmative commitment by DOE that all measures necessary to maintain the protectiveness of remedies, including land use controls and assurance of funding, will be taken. The risk basis and DOE commitment must be accepted by the regulators, local governments, Tribes and other stakeholders.	See general response to Recurring Issue/Concern #8.
State of California Environmental Protection Agency (San Francisco Bay Area Regional Water Quality Control Board)			
CA EPA(SF Bay Area Regional Water Quality Control Board)-1	Roger Brewer	Introduction - Clearly define the scope of potential environmental concerns that should be evaluated in risk-based assessment. The policy is written with an emphasis on the classic toxicological concept of risk to human health, i.e., direct-exposure of humans to contaminated media. Direct-exposure concerns do not always drive "risk" or the need for cleanup at contaminated sites, however. This is a common problem with risk-based assessments, where cleanup goals or screening levels developed for a specific concern are erroneously used as stand alone criteria to evaluate sites for potential environmental concerns (e.g., USEPA Preliminary Remediation Goals).	DOE agrees. See general response to Recurring Issue/Concern #3 for further discussion related to this comment.
CA EPA(SF Bay Area Regional Water Quality Control Board)-1	Roger Brewer	(cont.) In contrast, risk at sites impacted by carcinogenic VOCs may be driven by potential indoor-air impacts. Risk at sites impacted by highly mobile, noncarcinogenic chemicals (e.g., VOCs) is often driven by groundwater protections/leaching concerns. Risk at sites impacted by pesticides or metals may be driven by ecological concerns. "Risk" at sites impacted by noncarcinogenic but highly odiferous compounds (e.g., petroleum-related chemicals) may be driven by nuisance concerns. In order to avoid this problem at DOE sites, the draft policy should clarify the full scope of common environmental concerns that should be initially evaluated at all contaminated sites.	"……"

CA EPA(SF Bay Area Regional Water Quality Control Board)-2	Roger Brewer	Require that cleanup of all sites be initially assessed for both current or intended future land use and for unrestricted land use. Commercial/industrial sites are often assessed and cleaned up under an assumption that land use will not change in the near future. In many cases, however, the sites could be remediated to meet unrestricted land use with little or no additional cost or effort. Ignoring this has led to unnecessary restrictions on the future use of these properties and hampered later redevelopment efforts. Even when this is not the case, it is important to clearly document the cost and effort required to remediate the property to unrestricted land use.	DOE agrees that sites should consider reasonable alternatives when assessing remedial alternatives. However, DOE does not believe it would be cost effective to routinely develop additional assessments for future use scenarios that are not considered reasonable. DOE agrees to consider, on an exception basis, opportunities to remediate sites to less restrictive uses for relatively small incremental costs. Also see general response to Recurring Issue/Concern #8 for further discussion related to this comment.
CA EPA(SF Bay Area Regional Water Quality Control Board)-2	Roger Brewer	(cont.) This has become a big problem in densely populated urban areas where cleanup of industrial properties was assessed only under an industrial/commercial land use scenario and the sites are now being considered for residential redevelopment. Many of these sites are being redeveloped without an adequate review of the extent and magnitude of contamination that was left in place after the initial cleanup (e.g., industrial site in Mountain View, CA, recently redeveloped for residential use with high residual levels of TCE left in place).	"……"
CA EPA(SF Bay Area Regional Water Quality Control Board)-3	Roger Brewer	Emphasize the use of engineered controls and long-term land-use restrictions as a last resort only (e.g., commercial/industrial use only, caps, etc.). Risk management controls are both difficult to enforce and difficult to ensure over time. Long forgotten caps can be removed, contaminated soil excavated and spread out and the site redeveloped for commercial, industrial or even residential use. This not only exposes workers and residences to contamination, it exposes the original responsible party to long-term liability. The use of institutional controls to manage contamination in place should be carefully evaluated and used only when absolutely necessary. When used, a Risk Management Plan should be prepared and made available to city planning and permitting agencies. Several such tracking programs are being initiated in the Bay area and around the US.	See general response to Recurring Issue/Concern #8.

CA EPA(SF Bay Area Regional Water Quality Control Board)-4	Roger Brewer	Require that areas to be used for recreational purposes be initially assessed assuming unrestricted future land use. Unfortunately, it is becoming increasingly common for former industrial areas to be converted into open recreational parks or even "wildlife refuges" with no or minimal cleanup required. Remediation of such sites to meet less conservative, recreational-use only exposure scenarios can lead to substantially higher concentrations of contaminants being left in place than would normally be allowed for industrial properties. This intuitively goes against the concept of developing a park as "refuge" for humans and wildlife. Few parents would want their kids to play in an area that is too contaminated to be used for industrial purposes. Parks are also typically frequented by sensitive groups of people such as pregnant or nursing women, young children and senior citizens.	DOE shares the concern that institutional controls could fail. DOE will continue to pursue ways to ensure the continued reliability of controls. Please see the response to Recurring Comment #8 for further discussion related to this comment.
CA EPA(SF Bay Area Regional Water Quality Control Board)-4	Roger Brewer	(cont.) In addition, use of this scenario puts a hidden restriction on the number of days and years that an individual can visit the area without exceeding potential health hazards. Allowing open access to these psuedo-parks likewise exposes the original responsible party to significant future liability.	"……"
CA EPA(SF Bay Area Regional Water Quality Control Board)-5	Roger Brewer	In some cases, remediation of open land to unrestricted land-use standards may not technically or economically feasible. This should be evaluated on a site-specific basis and be closely scrutinized by the overseeing regulatory agency. In such cases, the appropriateness of allowing unrestricted access to the area should be carefully evaluated. This could include the need to formally place access restrictions on the property (i.e., based on the exposure frequency assumptions used in the risk-based assessment) and the need to post signs at the property entrance that warn of potential health hazards.	DOE agrees. Many of the DOE sites will not be returned to unrestricted use. Institutional controls will be used to restrict the access to, or use of, these sites.
State of Colorado Department of Public Health and Environment-Steve Tarlton			
CDPHE-1	Steve Tarlton	If the end state definition is driven by the remedy, rather than the remedy being driven by the end state, the logic of this approach is compromised and implementation will be difficult. It is necessary, therefore, to achieve an end state vision common to all participants in order to progress in remediation. This guidance should be focused on how to define the end state, and should be largely separate from remedy considerations. Once the end state is selected, risk-based remedy planning can proceed.	DOE agrees. The guidance will be rewritten to focus on end state vision development.

CDPHE-2	Steve Tarlton	Factors to be considered in the end state definition are the potential uses of the site by DOE, other federal agencies, tribes and/or the local community. Surrounding land uses are also critical. Site characteristics, including constraints imposed by contamination should be considered; however, it must be recognized that future uses are constrained by decisions made in the present, and it is tempting to allow circular logic to control the process. For example, if the site vision is to become naturalized open lands, achieving this vision would require removal of most or all structures (whether contaminated or not). However if the end state assumed that existing buildings would remain (possibly due to cost of removal), the naturalized open lands option for the future would be precluded. Thus, circular logic would control the definition of the end	DOE agrees. Surrounding land uses will be considered in the development of an end state vision. DOE also agrees that once an end state is selected, it will potentially govern how the property can be used in the future. Current and known future use will take precedence over hypothetical future use when determining the end state.
CDPHE-3	Steve Tarlton	One constraint is the need for DOE to have a long-term vision of their mission and how it is to be accomplished. For example, it is impossible to get an accepted approach to remediation at Rocky Flats until the future mission of the site was defined by the termination of the site's production mission. Community consensus was then achieved on reuse of the site. Has DOE defined their vision of the mission at each DOE site?	DOE agrees that clearly documented missions for all sites would support the development of end state visions. For some sites, with clearly defined ongoing missions, this determination will be relatively easy to make, however, for other sites where the future mission has not been clearly documented, it will not be as easy. Future mission of the site will be taken into consideration to the
CDPHE-4	Steve Tarlton	The second constraint, raised by the above issue, is the time frame for the defined end state. For example at Rocky Flats, end states were originally defined as intermediate and final, with the intermediate end state being 20 years in the future, defined by the removal of the plutonium from the closed site. Final end state was 60 to 80 years in the future, when all remediation would be completed. Each step was seen to have different attributes impacting land use and condition. Thus, for a given site, end points would need to be defined based on the locally-applicable conditions, such as continued (how long?) operations, contamination and remediation limitations, etc.	See the general response to Recurring Issue/Concern #3 and #7 for further discussion related to this comment.

CDPHE-5	Steve Tarlton	(1) First, does DOE expect to continue to be a major land manager for the federal government? If so, then DOE should establish mechanisms for long-term land management, including LTS for contaminated sites. However, if DOE expects to reduce their land holdings to the level necessary for their mission, they need to determine whether the goal for land transfer is to transfer properties with restrictions or unrestricted properties. (Certainly not all properties can be remediated to unrestricted use levels, and this may not always be desirable in cases where it is feasible, but DOE needs to define the Agency's generic goal.) (2) Second, what is the long-term DOE goal for each site? Is it needed in the long term for the DOE mission? Does DOE have a plan for transfer of the site to another function? What is the national guidance for the site? This answer comes from the vision for the DOE Complex, and each site's role in that vision.	(1) DOE will continue to be a land manager for some sites, for example, those with continuing missions (Office of Science, National Nuclear Security Administration). A single generic goal for the Department may not be possible. (2) Due to the diversity of DOE's missions it may not be possible to develop a single DOE vision on land use. Each DOE organization with land management responsibilities is responsible for developing its own vision on land use.
CDPHE-6	Steve Tarlton	Therefore, each site can approach defining a vision for the future knowing the general DOE expectations for end state, and the DOE site-specific expectations. Interactions among the site's operations, remediation, and land management organizations can bound the general expectations to a workable starting point for the site. Then, involvement with the site regulators and stakeholders can define an achievable vision within the national expectations. This vision then provides a goal for environmental restoration decisions, which would accomplish HH&E protection through remediation and/or management. A sound decision would allow use of the site consistent with the end state vision.	DOE agrees.
CDPHE-7	Steve Tarlton	The vision process (Levels 1 – 3) is missing from this guidance and belongs before Section 4. Sections 4 – 6 describe the creation of a remediation strategy, and Section 7 appraises the ability of the strategy to achieve the vision. As such, much of this document is mis-titled, even where the content is appropriate for the misnamed activity. Sect. 4.0, At this point the discussion shifts from addressing "end state vision" to the remedy decision process. (Level 4 in the attached figure.) What is required is the guidance for Levels 1-3, as discussed in General Comment 3 above.	DOE agrees that the focus of the Guidance needs to be clarified to provide information on how to develop a RBES vision. See general response to Recurring Issue/Concern #3 for further discussion related to this comment.
CDPHE-8	Steve Tarlton	Sec. 4, bullet 2, replace "end states" with "closure strategy". The integrated sitewide perspective is the end state vision.	The Guidance will be rewritten and this comment will be considered if still applicable.
CDPHE-9	Steve Tarlton	Sec. 4, bullet 3, replace "end states" with "remedies".	The Guidance will be rewritten and this comment will be considered if still applicable.
CDPHE-10	Steve Tarlton	Sec. 4, bullet 6, This bullet describes the remedy selection process.	The Guidance will be rewritten and this comment will be considered if still applicable.

CDPHE-11	Steve Tarlton	Sec. 4, bullet 7, replace "end states" with "remedies".	The Guidance will be rewritten and this comment will be considered if still applicable.
CDPHE-12	Steve Tarlton	Sec. 5, retitle to, "Strategic Considerations for Contrasting Vision and Existing Remediation Strategy". This step requires a completed site vision (Level 3) and describes the evaluation of whether changes are required in the remediation strategy (Level 4) to achieve the vision. Otherwise, the starting point for the vision would seem to be whether DOE believes they can negotiate a “better” cleanup level that reduces the cost of cleanup. Thus, the vision is created using circular logic with the starting point being minimizing the cost of cleanup. The result of this circular analysis is, not surprisingly, that all contamination should be left in place because the future site use is restricted contaminated property. Of course this approach is unacceptable.	The Guidance will be rewritten and this comment will be considered if still applicable.
CDPHE-13	Steve Tarlton	Sec. 6, retitle, "Cleanup Mission Considerations". These considerations apply to remediation strategy and implementation, not end state vision.	The Guidance will be rewritten and this comment will be considered if still applicable.
CDPHE-14	Steve Tarlton	Sec. 7, This section seems to adequately describe the post-remediation end state, which has been developed from the site vision and the remediation strategy. However, these are in actuality three separate concepts, and cannot be produced concurrently. The vision process (Levels 1-3) is missing from this guidance and belongs before Section 4. Sections 4-6 describe the creation of a remediation strategy, and Section 7 appraises the ability of the strategy to achieve the vision.	The Guidance will be rewritten and this comment will be considered if still applicable.

State of Colorado Department of Law			
State of CO-1	Dept. of Law	The background section of this document presents, in my view, a biased, incomplete, and inaccurate analysis of the problems with -- and progress of -- DOE's cleanup program over the past 15 years. If DOE wants to gain the support of regulators and the public for its proposed "risk-based end state" guidance, it would do well to delete this section in its entirety and start over. The criticisms in this section (cleanup agreements are outdated, focus on regulatory requirements instead of risk reduction, are not "business-like," focus on interim milestones, and are not integrated with future use of the sites; regulations are not risk-based) are strongly reminiscent of those in the discredited "Blush Report." Former Senator Johnston touted that report as the basis for his proposed amendment that would have preempted Washington's authority over the cleanup of the Hanford Site.	See general response to Recurring Issue/Concern #1.
State of CO-1	Dept. of Law	(cont.) It was also the subtext for subsequent amendments Senator Johnston proposed to preempt all states' authority over DOE's environmental cleanups. Does this sound like the kind of analysis that will encourage states to accept the policy? Don't burden a potentially good strategy with this sort of baggage.	"……"
State of CO-2	Dept. of Law	DOE should replace the existing background section with a description of the CERCLA provisions (and EPA guidance for both CERCLA and RCRA) that allow future land use to be considered in making cleanup decisions. It could then describe the uneven status of DOE sites' progress in developing cleanup strategies that integrate future use considerations. For example, it might state that some of the DOE facilities have developed future land use plans, integrated those plans with regulatory requirements in their cleanup programs, and have generally aligned cleanup strategies with future land use assumptions (we in Colorado think that Rocky Flats is one of these sites); that other sites taken steps to align cleanup strategies with future use assumptions, but have not completely integrated the two; and that still other sites have not begun the process.	DOE agrees that sites are at different levels of progress in integrating land use with remedy decision making and appreciates the well-crafted suggested alternative description. The purpose of the RBES effort is to develop that alignment.
State of CO-3	Dept. of Law	The guidance and policy should recognize that some sites have cleanup strategies that are driven by risk-based end states. It would be inefficient and counterproductive to reinvent the wheel at these sites. Colorado believes that the recent end state negotiations with Rocky Flats, soon to be finalized, meet the objectives of this guidance, and we would appreciate clarification that our site does not need to revisit this process. DOE should exempt sites that have met the objectives of the guidance from the need to implement the policy and guidance.	DOE is in the process of determining which sites will be required to develop RBES visions. Also see general response to Recurring Issue/Concern #2 and #5 for further discussion related to this comment.

State of CO-4	Dept. of Law	The guidance and policy should direct sites to comply with state laws regarding institutional controls. The success of risk-based cleanups depends in large measure on the effectiveness of institutional controls. There is ample evidence (much of it generated by DOE) that traditional approaches to implementing institutional controls (e.g., relying on common law easements or covenants) do not work. As a result, several states have adopted, or are planning to adopt, more comprehensive institutional control laws. These laws can help save DOE billions of dollars. Thus far, DOE's response to Colorado's law had been to refuse to acknowledge its applicability. If DOE wants state regulators to endorse risk-based end states, it must comply with state institutional	DOE will comply with all applicable laws and regulations. Also see general response to Recurring Issue/Concern #6 for further discussion related to this comment.
State of CO-5	Dept. of Law	Both the policy and the guidance need to recognize that existing law does not provide a blanket waiver for institutional controls to be used as a substitute for active remedial measures such as treatment, removal, and engineered controls. See 40 CFR §300.430(a)(1)(iii)(D) ("The use of institutional controls shall not substitute for active response measures (e.g., treatment and/or containment of source material, restoration of ground waters to their beneficial uses) as the sole remedy unless such active measures are determined not to be practicable, based on the balancing of trade-offs among alternatives that is conducted during the selection of remedy.") Note also CERCLA's statutory preference for remedies in which treatment that "permanently and significantly reduces the volume, toxicity, or mobility of the hazardous substances, pollutants and contaminants is a principal element." 42 U.S.C. § 9621(b)(1).	DOE agrees. Also see general response to Recurring Issue/Concern #8 for further discussion related to this comment.
State of CO-6	Dept. of Law	The policy/guiding principles should recognize that a "pure" risk-based cleanup approach may not mesh with legal requirements. (Section 5.0 of the Guidance does a better job of recognizing this point.) One way to do this would be to revise the first bullet as follows: "The Department will comply with the requirements of the nation's environmental laws and regulations. In some instances, legal requirements may mandate certain responses that are not strictly risk-based. However, in many cases, both CERCLA and RCRA (and corresponding state laws) provide flexibility to adopt risk-based cleanup strategies. The requirement to develop and achieve risk-based end states will drive the Department's compliance strategy."	DOE agrees with the sense of this comment and appreciates the excellent alternative wording. Your comment will be considered if still applicable in the revised policy/guidance. See general response to Recurring Issue/Concern #2.
State of CO-7	Dept. of Law	The meaning of the second bullet is not at all clear.	The purpose of the second bullet is to require that end states are developed with the whole site and its uses in mind, not on a piecemeal basis. The intent is to ensure that end state makes sense in the context of the entire site. DOE will clarify the statement if still applicable.

State of CO-8	Dept. of Law	The fourth bullet lists some factors that are a small subset of the items DOE should consider in applying the CERCLA National Contingency Plan's "9 criteria." By picking out these few items, the guidance suggests that they should be given enhanced consideration over the other factors in the NCP. I would suggest deleting this bullet, or else replacing it with a reference to the 9 criteria.	DOE will comply with all applicable laws and regulations, including the NCP's remedy selection criteria. Also see general response to Recurring Issue/Concern #8 for further discussion related to this comment.
State of CO-9	Dept. of Law	The fifth bullet should encourage sites to develop robust Long-Term Stewardship Plans, and reference the LTS guidance for Closure Sites. This bullet should also incorporate the need to evaluate the reliability of any engineered or institutional controls. This is a place where DOE could direct sites to comply with state institutional control laws.	See general response to Recurring Issue/Concern #3. See also response to CO-4 above as regards to state institutional control laws.
State of CO-10	Dept. of Law	The sixth bullet should be revised to reflect the fact that regulator approval, and not merely consultation, may be required.	DOE agrees. The change will be made if still applicable in the revised guidance.
State of CO-11	Dept. of Law	Section 2.0, first paragraph, second sentence should include a reference to States.	DOE agrees. The change will be made if still applicable in the revised guidance.
State of CO-12	Dept. of Law	In section 6.0, item #2, the definition of end state should be revised to begin when the remedial objectives have been achieved, not when the treatment systems are in place and operating. To use the example in the text, the fact that a pump and treat system is operational is no guarantee that it will reach the remedial objectives. Revising the definition here would be consistent with the first bullet under Section 7.0.	When revising the definition of RBES, DOE will consider your comment. Also see general responses to Recurring Issues/Concerns #3 and #7 for further discussion related to this comment.
State of CO-13	Dept. of Law	Minimizing the creation of new disposal sites in clean areas is a good objective, but there are times when they are necessary. Section 6.0, item #4 should be revised to recognize that in some cases, creating a new disposal facility may be preferable to leaving contamination in place. Leaving wastes in place, even with a cap, will not always be protective. The guidance should not prohibit consideration of what may be the best solution in a particular circumstance.	DOE agrees with the commenter's refinement to the objective. The suggestion will be considered when the section is revised, if still applicable.
State of CO-14	Dept. of Law	Section 6.0, item # 6 needs clarification. I hope that DOE is not signaling to its sites that they should take the side of the Air Force against EPA in the debate over enforceability of post-ROD documents.	The section will be rewritten to be clearer if still applicable. The intent of item #6 was to emphasize the importance of having a regulatory strategy that leads to completion of the cleanup mission. DOE did not intend to "signal" sites to take position on any matters.
State of CO-15	Dept. of Law	Section 6.0, item #8 -- The last sentence is important, and should be broken out as its own item. Designing for failure of engineered and institutional controls was one of the main recommendations of the DOE-chartered report by the National Research Council ("Long-Term Institutional Management of USDOE Legacy Waste Sites").	Your comment will be considered for the Corporate Strategy.

State of CO-16	Dept. of Law	In section 7.0, the second bullet should be revised to direct DOE sites to evaluate the long-term reliability of any engineered or institutional controls as part of the discussion of remaining hazards.	DOE will consider adding such a requirement to the Corporate Strategy. Please note that the issue of the long-term reliability of institutional controls has been discussed very extensively in multiple recent DOE reports and in

State of Idaho			
State of ID-1		It would be an inefficient use of our scarce cleanup resources to reinvent what already exists, and in some cases is already achieved. Identifying the extent to which sites have already worked with regulators to develop risk-based end-states and the level of public input. Identifying where the lack of a clear end state, including end uses or disposal forms for materials and wastes, is impeding cleanup. (Some problems DOE may assume are due to a lack of end states are in fact due to a lack of alignment between cleanup strategies and end states, technical barriers, inadequate management or other causes. INEEL cleanup shortcomings have largely stemmed from ineffectiveness in implementing risk-based end states, not in defining them.)	See general response to Recurring Issue/Concern #2.
State of ID-2		Clarifying what entities it expects to be responsible for maintaining the end states for facilities following cleanup to ensure there is mutual understanding of acceptable risk and cost-effectiveness.	DOE is currently working to establish roles and responsibilities for surveillance and maintenance.
State of ID-3		Any DOE policy on end-states should recognize the end-states and decision processes that have already been developed. Most cleanups are already grounded in risk-based end states, with processes in place to modify them if the underlying assumptions about their ability to protect human health and the environment change. State and federal agencies have already invested considerable resources in developing risk-based end states for INEEL based on land use planning with public involvement. Existing cleanup agreements have built-in flexibility to respond to revised assumptions or technology developments. State and federal regulators have agreed to numerous changes in cleanup activities to accommodate changes in circumstances.	See general response to Recurring Issue/Concern #2.
State of ID-4		The development of risk-based end states and compliance with the nation's environmental laws are interrelated, not separate pursuits. DOE's draft policy seems to dissociate the development of risk-based end states from compliance with the nation's environmental laws when the two are in fact entwined. DOE cannot unilaterally define the acceptable end states of cleanup regulated by states and EPA. That is why we established a process for EPA, DOE and the state to reach agreement on risk-based end states for INEEL with public involvement.	See general response to Recurring Issue/Concern #4.

State of ID-5		DOE should focus on defining uses or disposal waste forms for materials that have neither a designated use nor ready acceptance at repositories. Successful cleanup at many DOE sites depends on materials moving to repositories or other sites. Some of DOE's major initiatives for cleanup acceleration rely on uncertain end states for waste forms currently not acceptable at geologic repositories. Notably, these initiatives comprise a significant portion of DOE's projected cost savings. Proposals such as the shipment of non-glass/ceramic waste forms to the high-level waste repository or remote-handled waste to WIPP carry high programmatic risks. We encourage DOE to better define repository end states since actions to stabilize these wastes are needed in the near term. If DOE cannot resolve these issues so fundamental to "what cleanup looks like" in a timely manner, these initiatives have a high likelihood of becoming the piecemeal and iterative approach DOE seeks to avoid.	The DOE Top-to-Bottom Review recommended calls for action to accelerate disposition of difficult waste streams. In response, DOE has formed three corporate project teams relative to this topic, reporting directly to the Assistant Secretary for Environmental Management, to develop strategies to reduce risks and accelerate disposition for high level waste, spent nuclear fuel, and other waste types. Results from the corporate projects will be incorporated into site project baselines, and progress against those baselines will be monitored through performance metrics and configuration management.
State of ID-6		Technology investment and remedy selection should revolve around protective end-states and not vice-versa. President Kennedy set the agenda for national technology investments in 1961 with the goal of landing man on the moon and safely returning to earth within the decade. (See President Kennedy's Special Message to the Congress on Urgent National Needs, May 25, 1961.) Instead of setting end-states based on what is "technically achievable" today, end-state policy and priorities should set the agenda for technology development.	See general response to Recurring Issue/Concern #9.

State of ID-7		DOE should clarify what it means by "risk" in "risk-based end state." The draft guidance creates confusion about what is an "end state," "end state risk," "cleanup criterion" and "site conceptual model." For example, it initially equates the end state vision to land use at the end of cleanup, but then identifies land use as one of three components to be considered in the analysis of end state risk. (Compounding confusion is the suggested outline for developing an end state description that presents a different rendition of components.) Land use is only one of the draft's nine End State Vision Considerations. The draft guidance refers to 'pure' risk-based end states without defining what constitutes purity. For example, it is unclear whether DOE includes the Considerations listed later in the document, such as life cycle cost, in its definition of a "pure" risk based end state.	See general response to Recurring Issue/Concern #3.
State of ID-8		An end-state is what a cleanup look likes when its final objective is achieved. The draft guidance creates confusion using different definitions of end state. At one point the document states the end state begins when a remedy, such as groundwater treatment facility, is operating as designed, not when its final objective is achieved. The document later indicates the vision document should describe the end state of the site when cleanup is completed. The end state must entail what the site looks like when the cleanup objective is achieved, whether that is through removal, treatment, radioactive decay or permanent isolation. This definition is key to making decisions about the protectiveness and cost-effectiveness of remedies, both over the near and long term, and allocating responsibilities for ongoing management of a site after achieving the agreed-upon end state.	See general response to Recurring Issue/Concern #3.
State of ID-9		Interim steps can be appropriate and effective steps to reduce overall cleanup costs and prevent the spread of contamination while shaping final remedies. The draft policy unfairly criticizes taking interim steps while working to understand a problem and develop a final solution. Determining the nature and extent of contamination can take time. Taking near-term actions to reduce risks in the interim can be both prudent and cost-effective. This is particularly true in the case of interim actions that prevent further contamination of groundwater, a difficult and expensive media to clean up, or that reduce worker exposure.	See general response to Recurring Issue/Concern #1.
State of Kentucky			

State of KY-1		PURPOSE AND SCOPE-The purpose of the policy is not readily apparent. The system DOE describes as desirable seems to reflect the existing CERCLA/RCRA integrated processes already in place and operating at the PGDP under the existing Federal Facility Agreement. For example, anticipated future land use ("risk-based end states vision") has been agreed upon by the public and the Cabinet and has been incorporated into the Site Management Plan. Thus, everyone knows where we are going but DOE refuses to spend the necessary money to get there. DOE states the policy should apply to all sites currently undergoing cleanup. However, the policy does not account for the fact that a site may already have an agreed upon end state vision. Also, the policy does not describe how or when to achieve an end state vision when there may be an ongoing mission at the site.	See general response to Recurring Issue/Concern #2.
State of KY-2		DOE implies that it needs to avoid interim milestones and conditions that are subject to change so as to focus on the end states vision. DOE fails to explain the rationale for its determination that interim milestones are an impediment to achieving a risk-based end state. It is the Commonwealth's view that interim milestones are necessary to ensure timely completion of the end state, as well as, being a needed check on changing conditions.	See general response to Recurring Issue/Concern #1.
State of KY-3		BACKGROUND-There is no support for DOE's statement that it has achieved little real risk reduction at its sites due, in part, to existing cleanup agreements. The policy fails to identify that at many sites a decision or proposed outlook for future use of the facilities was established and utilized in making cleanup decisions and yet, DOE failed to obtain real risk reduction.	See general response to Recurring Issue/Concern #1.
State of KY-4		POLICY-It is unclear how the end states vision will drive compliance at the site. The policy fails to provide any empirical data to support its contention that having a "decision about the future use of the facility and property" will provide a different result in achieving real risk reduction at	See general response to Recurring Issue/Concern #1.
State of KY-5		DOE's focus on integrated site-wide remedies (i.e., using site-wide risk assessments) should not be used as a means to avoid cleanup of individual source areas of contamination as required by CERCLA/RCRA.	See general response to Recurring Issue/Concern #4.

State of KY-6		The policy should include a broader discussion on the development of and use of “effective and transparent institutional controls.”	See general response to Recurring Issue/Concern #7.
State of KY-7		The policy should recognize that state regulators play more than a consultative role in developing and achieving the risk-based end states.	DOE agrees and the suggested changes will be made in the final policy document
State of KY-8		IMPLEMENTATION-The policy incorrectly assumes that all sites need to “reformulate the cleanup strategy.” This policy should not be used as a means to renegotiate existing agreements to eliminate interim milestones.	See general response to Recurring Issue/Concern #1.
State of KY-9		Guidance on how a risk based end state vision should be constructed and what it should contain should be a joint venture between DOE, the regulators and the public, since many of elements of the vision will have a direct impact on meeting the applicable requirements required by both federal and state laws.	See general response to Recurring Issue/Concern #10.
State of KY-10		1.0 Introduction-DOE states that a risk-based end state is the “agreed to vision for land use at the end of cleanup.” Although DOE recognizes that a site’s mission may impact the vision, the Guidance does not address whether land use decisions will be delayed until the site’s mission is complete. If so, such delay will result in unacceptable delays	See general response to Recurring Issue/Concern #3.
State of KY-11		5.0 Strategic Considerations-DOE seems to focus on how it can change existing regulatory agreements rather than assessing what internal changes it should make to more efficiently implement cleanup at its sites. What is a “pure” risk-based end state?	See general response to Recurring Issue/Concern #3.
State of KY-12		5.0 For sites which are subject to a Hazardous Waste Permit, DOE must comply with RCRA/State hazardous waste requirements since those requirements would not be subject to the ARAR waiver process under CERCLA .	See general response to Recurring Issue/Concern #4.
State of KY-13		5.0 DOE should include a discussion of funding mechanisms for long-term stewardship in the guidance.	See general response to Recurring Issue/Concern #6.
State of KY-14		6.0 End State Vision Considerations: In the consideration of “trade-offs”, DOE should not forget that adequate characterization is necessary in order to assess the risk posed by contamination that is controlled by institutional controls.	See general response to Recurring Issue/Concern #7.
State of KY-15		6.0: For defining when the end state begins, the “end state” cannot begin until the property has been cleaned up to the designated land use.	See general response to Recurring Issue/Concern #3.
State of KY-16		6.0: Consideration of minimizing the creation of new waste disposal sites should not be used to create a bias for leaving contamination in place. DOE has an obligation to implement permanent remedies.	DOE will meet all of its obligations as specified in the applicable laws and regulations.
State of KY-17		6.0: Consideration of a regulatory strategy that allows completion of the cleanup mission-It is the regulators not DOE that determine when a remedy is complete.	DOE agrees and did not intend to suggest that it has unilateral authority in this regard.

State of KY-18		6.0: Use of decision analysis and logic tools that are relevant and appropriate-DOE should not use “site-wide risk evaluations” in a manner that allows the actual risk of discrete areas of contamination to be understated.	DOE did not intent to understate actual risks but rather to ensure that all risks are evaluated in an integrated manner.
State of KY-19		7.0 Scope and Content: DOE should include a discussion of long-term stewardship funding in the vision document.	See general response to Recurring Issue/Concern # 6.
State of Missouri Department of Natural Resources			
MODeptNat.Res-1		General: We appreciate the opportunity to comment on these draft documents. Unfortunately, with no other information other than the three documents and a cover letter from Ms. Jessie Roberson, it is difficult to determine how or why DOE is developing these documents. They are not self-explanatory. While we support the general concept of developing acceptable risk based end states for DOE’s closure sites, these documents appear to outline what is already expected and is currently under development at many of the closure sites. Little new direction, vision or justification was provided, merely “rewording” of concepts and requirements that exist under CERCLA and or RCRA Corrective Action. In many situations, decisions and actions to implement acceptable risk based end states, which are protective of human health and the environment, continue to occur with actions at DOE sites in concert with existing regulations and regulator support.	DOE agrees that the purpose of the effort should be explained better and the policy and guidance will be rewritten to address the concern. See general response to Recurring Issue/Concern #2 for further discussion related to this comment.

MODeptNat.Res-1		(cont.) If site-wide risk based end states have not been contemplated by DOE to date, it would be surprising as it has been considered the common sense standard practice from the state's perspective for years. Unfortunately, funding and the various commitments necessary for DOE to uphold and or complete those decisions have been lacking in the past (or have been too complicated). This situation results in practical separation of various operable units or corrective action management units in order to be protective and demonstrate progress versus waiting for all the funds and activity as a component of one site decision. The old adage "how do you eat an elephant? One bite at a time", is applicable. Site cleanup decisions and implementation, risk based or not can often be daunting unless it is developed and implemented in manageable steps towards an accepted goal.	See general response to Recurring Issue/Concern #1.
MODeptNat.Res-2		General: It is important to note that the terms "Long term Stewardship (LTS) " are conspicuously absent from any of these documents. It is uncertain whether these new policies, guidance and system requirements are intended to meet the intent of previous LTS guidance and planning efforts for closure sites already committed to.	See general response to Recurring Issue/Concern #6.
MODeptNat.Res-3		General: The inability to fully evaluate the post-closure care costs and long term responsibilities is a component that has not been addressed in these documents. The documents on the other hand imply that if everyone understood the risk based end states, decisions and costs would appear obvious. The documents also fail to take the benefit of collective learning across the complex that, vision is outlined at the top, yet implemented on a site by site basis/state by state basis. In working with States, in addition to the DOE sites on a larger scale, the vision and details can be enhanced for a greater perspective of what is accomplished as well as what the real costs and impacts are: i.e., benefits of sharing the larger vision.	See general response to Recurring Issue/Concern #6.
MODeptNat.Res-4		Purpose and Scope: This section notes that "The single most significant change that we can make is to focus the program on goals that are clearly articulated and technically defensible and achievable". Is the goal and most significant change really strictly articulating the plan? It appears that a more appropriate goal would be to identify a Risk Based End State that is protective of human health and the environment, and one that supports an acceptable and intended reuse of the site for the	DOE agrees and will clarify the policy accordingly.

MODeptNat.Res-5		Purpose and Scope: It is important to understand that the majority of cleanup decisions made to date have been, and will continue to be, risk based decisions. These decisions were not made in a vacuum. Generally, we do however now know more about these sites and the difficulties being faced in conducting various cleanups, being able to reflect on previous decisions and develop lessons learned is	DOE agrees that many remediation decisions considered risk. However, the risk analysis has not always supported the appropriate end use for the site or used a comprehensive site wide approach. Also see general response to Recurring Issue/Concern #2 for further discussion related to this comment.
MODeptNat.Res-6		Purpose and Scope: The Federal Facility Agreements are portrayed as barriers to doing work quicker, safer and more efficient. This is inappropriate. The Federal Facility Agreements, although cumbersome at times, keep us focused on completion of a task yet allow for interim milestones to ensure we remain on track. These documents as well as a myriad of other "guidelines" i.e., DOE orders, should always be under review to ensure they force progress.	See general response to Recurring Issue/Concern #1.
MODeptNat.Res-7		Purpose and Scope: This document does not describe the timeframes considered and or the scope of sites being addressed; all sites, unlimited timeframes etc. It should also be noted that these two factors change with or without stakeholder input.	DOE is in the process of determining which sites will be required to develop a RBES vision. Also see general response to Recurring Issue/Concern #5 for further discussion related to this comment.
MODeptNat.Res-8		Background: The Top to Bottom review was another of DOE's self assessments, which at times failed to accurately portray reality. While many more successes can be accomplished, to note that the 12 year investment achieved little real risk reduction is likely an unfair assessment. Post remediation risk assessments, which evaluate residual risk are routinely not completed by DOE, although a valuable tool for comparison. It also appears a convenient excuse for DOE to note that the departments program has been focused on and driven by achieving compliance with regulatory requirements. It is an approach that can best be described as piece meal and iterative. In many aspects, DOE continues to be self-regulating.	The documents will be modified to better explain the logic and need for risk-based end state planning. DOE believes that much more risk reduction can be accomplished at an accelerated rate. Also see general response to Recurring Issue/Concern #1 for further discussion related to this comment.

MODeptNat.Res-9		(cont.) Background: The material continues by indicating that “those regulatory agreements and the associated compliance milestones were generally established prior to an adequate understanding of the nature of the risks and hazards at the site.” Continuing on “Thus, initial and subsequent agreements contained cleanup goals that were typically based on interim milestones and rarely articulated or pursued action that attained safe cleanup in a business-like and efficient manner. In addition, the department’s cleanup decisions or approaches were not adequately integrated with decisions about the future use of the facilities and property”. Overall, the background appears to outline numerous excuses for what the department did or did not do, with the excuse that if they only had done things “business-like”, they would not be in this mess. It is interesting to note that the government portion of the weapons complex; although in the business of making weapons, has never demonstrated an ability to be “cost effective” or “business like” in	"……"
MODeptNat.Res-9		(cont.) Thus, acknowledging that they are a behemoth government agency filled with “micro cultures” protecting their turf and tail would be the first recognition. Eliminating the “stovepipes for funding” and challenging everyone responsible to develop the best solutions critical. It should also be noted that the environmental portion does not dictate the production side of the equation. Only through the use of “life cycle costs and responsibility” have individuals even considered the consequences of their actions.	"……"
MODeptNat.Res-10		Background: The continuation of statements like “In summary a lack of effective cleanup...is needed to clearly define and articulate end states based on risk”. Again, DOE simplifies the issue by implying that they just haven’t described what they want clearly enough. Such oversimplification may in fact contribute little to improve the situation.	See general response to Recurring Issue/Concern #1.
MODeptNat.Res-11		Policy: The policy references only those sites currently undergoing cleanup, as needing to develop a risk based end state. When agreement cannot be reached on entire sites, it has generally been demonstrated that moving forward in areas where agreement exists	The decision on which sites will need to develop a RBES vision has not been made at this time. DOE recognizes it may be necessary to make site specific decisions regarding the scope of the RBES vision.
MODeptNat.Res-12		Policy: Setting sites risk based end state is appropriate, however few sites were willing to collectively announce various directions since they would be considered pre-decisional depending on the process.	The RBES vision will be based on the current understanding of future use of the site.

MODeptNat.Res-13		Policy: Overall, the requirements listed are appropriate, although there is little information provided to help sites address these issues, especially in the context of disagreement, or if an agreement is reached, how that will expedite the process. If funds are not available to address the entire site to the end state; sites, states and stakeholders are again returned to the current system of establishing interim milestones and measures (that can be funded) moving to the final goal.	The purpose of the policy is to establish the requirement for the development of a RBES vision, and it was not intended to provide details on how to resolve issues. DOE intends to develop a Corporate Strategy document which will outline a more specific implementation path.
MODeptNat.Res-14		Policy: Again, requirements that appear to be obviously missing are enforceability, funding and flexibility.	Funding is always a concern and will be secured through the normal appropriations process. Enforceability will be dependent on the regulatory framework for the site. The guidance will provide adequate flexibility to address site-specific considerations. See general response to Recurring Issue/Concern #5 for further discussion related
MODeptNat.Res-15		Implementation: Having sites assess their end state vision, and using this assessment as step for a dialog with regulators and stakeholders to set and use risk based end states for cleanup decisions is reasonable and appropriate. It is also consistent with the principles established under the Base Realignment and Closure Act , which is used for Department of Defense sites. For many of these sites, enforceable milestones and cleanup commitments were embodied in FFA's or other similar agreements. It should be noted that the incentive to allowing property to become available for transfer or reuse, which was not sufficiently cleaned for unrestricted use, was primarily based on the need to retain the economic basis for the community. If the property is not being reused, or currently provides economic benefit to the community, cleanups to permit unrestricted future use is preferred.	DOE recognizes that property that will be transferred outside of the Department will require special consideration. Restrictions on use do not necessarily prevent beneficial use by local communities. The RBES vision will take into consideration the appropriate future use, whether it will be ongoing DOE operations or transfer to another federal agency or private entity.
MODeptNat.Res-16		Implementation: Little information is provided about what the overall goals are; reductions in cost, expedited cleanup, focused missions, etc. Again, risk based cleanups have been the norm for years.	See general response to Recurring Issue/Concern #2.
MODeptNat.Res-17		Introduction: DOE may need to consider how they can assist neighboring landowners to maintain the appropriate land uses when bordering DOE property; when changes to the land use could have an adverse affect to the Risk Based End State DOE has established. If buffer zones are appropriate on private property, DOE may consider the means to establish them; beyond their normal role.	DOE will consider your comment in the final document.
MODeptNat.Res-18		Schedule Requirements: No Information is provided to address areas where agreement cannot be reached on the End State Vision.	Such a possibility will be addressed on a case-by case basis.
MODeptNat.Res-19		Schedule Requirements: No information is provided to indicate "incentives" for sites and stakeholders agreeing on the End State Vision.	DOE believes that the RBES goals of achieving faster risk reduction for less taxpayer money provide clear incentives to all parties involved.

MODeptNat.Res-20		Guiding Principles: It appears redundant to restate the requirements of the policy verbatim with little additional information or value added.	The need for redundancy will be re-considered when the documents are re-written.
MODeptNat.Res-21		Guiding Principles: In the policy these items are identified as requirements, in the guidance these same items are identified as guiding principles, what is the difference? Should there be one?	The difference between the policy and guidance will be resolved when the documents are rewritten.
MODeptNat.Res-22		Strategic Considerations: The last sentence " For those sites that are further along in the process…..more internal planning may need to be completed before the regulatory agencies or stakeholders are approached", leaves one to believe DOE does not have a plan, however it wants to reserve the right to change the rules after everything is agreed to. What is DOE considering in this situation?	DOE disagrees with your comment. The intent of the referenced sentence was to indicate that additional work may be necessary to develop RBES visions at sites where cleanup decisions have already been made that may not align with the appropriate end state. The approach in such a situation is dependent on the site, and will have to be evaluated on a site-by-site basis. DOE will consider clarifying the statement in the final document, if
MODeptNat.Res-23		Strategic Considerations: The steps identified for the internal planning include cleanup criteria based on "pure" risk based as opposed to contaminated risk based.	The use of the term "pure risk" based will either be deleted or clarified. See general response to Recurring Issue/Concern #2 for further discussion related to this
MODeptNat.Res-24		Strategic Considerations: At the very end, reference to the consideration of long term cost of stewardship for the end state goals must be incorporated into the strategy. DOE has only recently developed estimates for these components, yet most appear to underestimate the actual situations.	See general response to Recurring Issue/Concern #6.
MODeptNat.Res-25		End State Considerations: Under item 4. Cost is also a key component to be evaluated when determining whether to cap waste in place; current costs as well as the life cycle cost for Long Term Stewardship.	See general response to Recurring Issue/Concern #6.
MODeptNat.Res-26		End State Considerations: Under item 6. The strategy references unenforceable documents that constitute an important element of the exit strategy. Items like Long-Term Stewardship plans, which are not strictly RCRA/CERCLA, may need to be enforceable to provide the flexibility under the regulatory framework.	See general response to Recurring Issue/Concern #6.
MODeptNat.Res-27		End State Considerations: Under item 7. It is unclear what is being considered as an alternative risk based end state. Additionally, the various components referenced for consideration tend to mirror some existing regulatory decision process; is this intended to be a reevaluation, further justification or endorsement of existing CERCLA	The use of the term "alternative risk based end state" will be clarified or the term deleted. See general response to Recurring Issue/Concern #2 for further discussion related to this comment.

MODeptNat.Res-28		End State Considerations: Under item 8. It is noted that the soil compliance strategy is to be considered in conjunction with the groundwater compliance strategy. This appears to be stating the obvious. Unfortunately, at times decisions relating to soils remediation are delayed until everything is understood about the groundwater. It could take many more years and dollars to fully address the problem. Under CERCLA, removal actions are frequently used to address the more obvious problems. When doing so, these actions must not be inconsistent with what is considered reasonable for a final decision. Early actions have frequently demonstrated an avenue to address many problems in a cost effective manner while the remainder of the site is being further evaluated.	DOE agrees with your comment.
MODeptNat.Res-29		End State Considerations: Under item 9. It is critical that many of the long-term plans that support the end state should be enforceable, to provide the necessary level of support and credibility. It is also important that DOE remain responsible if future owners, or conditions change that violate the land use controls.	DOE has in place formal procedures and directives that establish programmatic responsibilities to enforce institutional controls. It is also likely, in some cases, other entities other than DOE will have roles in monitoring and enforcing institutional controls.
MODeptNat.Res-30		Scope and Content: This section appears to address many of the components generally outlined as “Long Term Stewardship”, without the details. Again, it is unclear what the goals and purpose for restating what is considered the “LTS” plan for a site, unless it’s use is for comparing and contrasting to other sites in a “cliff notes” format.	See general response to Recurring Issue/Concern #6.

Comment Response Document

State of Nevada Department of Environmental Protection			
NVDEP-1	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	Overall, the draft policy falls short in the effort to institutionalize a "Long-term Stewardship (LTS)" initiative at DOE facilities throughout the nuclear weapons complex. Incorporating LTS activities at contaminated sites is critical for defining "risk based end states" problems associated with the ongoing management and dissemination of information about chemical and radioactive contamination throughout the complex cannot be understated. Hence, LTS principles must be addressed in the draft policy statement. The policy should require execution of Long-term Stewardship practices such as land use controls, monitoring and information management, at distinct and/or contiguous contaminated sites. Without such enforceable requirements, there will be little confidence in the acceptability of established "risk based end states."	See general response to Recurring Issue/Concern #6.
NVDEP-2	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	The reality is that DOE will leave significant volumes of radioactive and chemical wastes in soils and groundwater at many sites across the country. Moreover, by volume, most this contamination will be left in un-engineered facilities and will pose potential threats to human health and the environment in perpetuity. This situation will be particularly acute for those DOE's sites that are heavily contaminated, are waste importers, and/or are "closing in place" areas where significant soil and groundwater contamination exist. While we recognize that DOE has experienced only limited success at institutionalizing a program to address control of contaminated sites in perpetuity, it is imperative that DOE continues with a Long-term Stewardship effort, albeit focused somewhat narrowly on achieving "risk based end states."	See general response to Recurring Issue/Concern #6.
NVDEP-3	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	The draft policy document should be revised to avoid the term "interim milestones" and/or references about the alleged in-effectiveness of regulatory agreements in the DOE Environmental Management (EM) Program. The use of these terms--at least in the context presented--incorrectly implies that the federal/state regulatory process governing characterization, remediation and/or cleanup of DOE contaminated sites has obstructed the cleanup efforts. DOE is well aware that it is generally not the case; in fact such claims cannot be substantiated in any comprehensive way. The fact remains that without these regulatory agreements as "legal drivers," there would be little characterization and/or remediation achieved anywhere in the nuclear weapons complex.	See general response to Recurring Issue/Concern #1.

NVDEP-4	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	We recommend that the "Purpose and Scope" and the "Background" section of the draft policy be re-written. The focus of these sections should be to acknowledge the current scope of contamination in the weapons complex and to emphasize that "closure in place" of long-lived radionuclides is the reality, in light of limited resources and/or practical approaches to cost effective cleanups. The policy should further note that developing "risk based end states" can only be established with a clear understanding of the accompanying components of Long-term Stewardship, such as site monitoring, institutional controls and information management. And these LTS components must be implemented at the site level and across organizational lines of authority throughout DOE (e.g. Nuclear Energy, National Nuclear Security Administration, Science, etc.)	DOE generally agrees with these points and will re-write the introductory sections to account for these and other proposed changes.
NVDEP-5	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	The draft policy also assumes that cleanup goals can be definitely articulated and will results in environmental protectiveness; we believe this may not be achievable at many sites. The draft policy assumes that environmental protectiveness can be defined--yet in some areas, such as deep contaminated groundwater--the uncertainties of defining a "risk-based end states" may in fact not be achievable for some time to come. In these and other circumstances, the policy must acknowledge that existing federal/state agreements will continue to define remedial actions, through built-in flexibility that is responsive to newly acquired information and/or is dependent on future solutions through advanced	DOE accepts that the RBES initiative cannot eliminate all uncertainties, but it believes the effort will better define "where we need to go" as well as identification of potential barriers. DOE acknowledges that the compliance agreements can be flexible to accommodate changing conditions.
NVDEP-6	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	Nevada Test Site: We must take this opportunity to relay our concerns about DOE's pursuit of a "risk-based end states" program at the Nevada Test Site (NTS). As stated above, and for the clean up program to be successful, DOE's must institutionalize a process that implements the components of Long-Term Stewardship at contaminated sites. The referenced policy and guidance must also be revised to insure that "program integration" is in place to address the transfer of responsibility to weapon complex sites that are not under EM's direct control.	See general response to Recurring Issue/Concern #6. DOE acknowledges that site transition and transfer of responsibility can be a challenge and the Department is working to resolve this issue.

NVDEP-7	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	At the NTS, for example, the National Nuclear Security Administration (NNSA) is the site "landlord." (NNSA is the "owner/manager" of most NTS assets including the associated legal responsibility for maintaining land-use controls on the NTS, which is withdrawn public lands [i.e., 800,000 plus acres]. Given this situation, establishing a "risk-based end states" program at the NTS will require concurrence/implementation from NNSA. While this may seem doable, there are "land-use management" complications that must be addressed prior to establishing a workable "risk-based end states" effort at the site.	DOE policy regarding risk-based end state cleanup is expected to be approved by the Secretary of Energy with Departmental-wide application. DOE expects that many of the "non-EM" sites will be included in the RBES effort.
NVDEP-8	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	Defining/implementing a "risk-based end states" program for managing unprecedented groundwater contamination, hundreds of contaminated industrial sites, and vast areas of radiologically contaminated soils at the NTS, will be an unparalleled institutional challenges for DOE. Unsurprisingly, the State of Nevada's policy response is to suggest that DOE implement a comprehensive land-use management program that both establishes and/or redefines "land use areas" on the NTS based on the referenced RMP process mentioned above. Such action, however, will necessitate NNSA support and leadership.	DOE agrees that the site landlords must play a lead role in the land-use management program. See also response to NVDEP-7.
NVDEP-9	Paul Liebendorfer & John Walker (State of NV, Div. Of Env. Protection)	We feel that DOE officials in Nevada would not be able to clearly define "risk-based end states" for most contaminated sites on the NTS. We believe that DOE must acknowledge this fact in a re-draft of the referenced policy and guidance document. Moreover, we believe DOE officials at other facilities will face similar problems in making decisions to establish "risk-based end states" for contaminated sites. The failure to make such determination is most likely linked to DOE inability to define future use of the facilities and properties at many locations throughout the nuclear weapons complex.	DOE understands that each site has unique contamination problems. The fact that NTS has an ongoing mission requires integration of RBES visions with the NNSA. We appreciate that it may be difficult to reach agreement with regulators, affected governments, and stakeholders on all aspects of end-state planning, but nonetheless believe the process is needed.
State of New York Department of Environmental Conservation			
State of NY-1	Dept of Env. Conservation	We have received the Draft DOE Policy regarding risk-based end states. NYSDEC, as well as the federal government, already has procedures, standards and regulations is place regarding the clean-up of contamination. We feel that a review of this document would be counterproductive in meeting our requirements regarding sites within New York State.	The comment is noted.
State of New York Energy and Research Development Agency			
NYSERDA-1		When issued, will the Draft DOE Policy XXX, Cleanup Driven by Risk Based End States, and the Draft DOE Guidance Document, Development of Risk-Based End State Visions by applied to the U.S. Department of Energy (DOE) Ohio Field Office West Valley Demonstration Project (WVDP)? If not, why not?	Final determinations as to which sites will be required to prepare risk-based end states have not been made. Also, see general response to Recurring Issue/Concern #5.

NYSERDA-2		How does DOE intend to integrate the implementation of this policy (i.e., creation of an end-state vision that is supported by the regulatory community, local community, Tribal nations, and affected stakeholders) with the requirements of the National Environmental Policy Act (NEPA)?	DOE views the two processes as compatible and would see that an end-state vision, if developed for West Valley, would support the ongoing NEPA process.
NYSERDA-3		Purpose and Scope- NYSERDA concurs with DOE's stated objective of focusing program cleanup efforts on the cleanup end-state, as opposed to "…interim milestones or conditions that are continually subject to change." In this context, however, the "Phased Decommissioning Alternative" included in the "Draft Notice of Intent to Prepare a Revised Draft Environmental Impact Statement for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project" does not support the state objective of this policy. For similar reasons, NYSERDA has previously questioned the inclusion of this alternative in the NOI. To allow the EIS process to proceed, we have agreed to allow the NOI to be published with this alternative, but this draft policy provides one more reason to question whether the "Phased Decommissioning Alternative" should be included in the Revised Draft	The Phased Decommissioning alternative was not included in the final NOI.
NYSERDA-4		Policy- NYSERDA supports the policy of formulating an end-state vision "…in consultation with regulators, stakeholders, and Tribal Nations." We encourage DOE to apply this policy at the WVDP.	DOE will consider your comment in the final document.

NYSERDA-5		Introduction- As discussed in Section 1.0 of the draft guidance document, two of the most significant factors in establishing an end-sate vision for the WVDP will be DOE's mission and identification of the points of compliance. DOE's mission at the WVDP includes decontamination and decommissioning of the WVDP to meet the License Termination Rule (LTR). Because NYSERDA may release some or all of the Retained Premises property for restricted use, the point of compliance for the off-site receptor should be located at the WVDP	DOE understands the comment and will consider it as the NEPA process continues. DOE will meet NRC's LTR for the site.
NYSERDA-6		Schedule Requirements- The proposed time frames appear unrealistic. Six months (January 1 to June 1, 2003) does not seem like an adequate amount of time to draft an end-state vision that addressed each sites' risks and hazards, some of which may not be fully understood. In order to avoid yet another iterative process, how will DOE assure stakeholders that cleanup decisions at each site are indeed based on an adequate understanding of risks and hazards integrated with acceptable decisions on future site use? What does "endorsement" of End State Visions mean? It seems unrealistic to expect the regulators and stakeholders to review, understand, and endorse an end-state vision in less than three months.	See general response to Recurring Issue/Concern #5.
NYSERDA-7		Strategic Considerations and End State Vision Considerations- Where and how are these considerations addressed in the development of the end-state vision? Where and how are these "considerations" addressed with regulators and other stakeholders? Where will this type of information be documented?	Your comment will be considered in developing the final documents.
NYSERDA-8		End State Considerations, Minimize the Creation of New Waste Disposal Sites- One of the options presented to minimize creation of a new waste disposal site is "…simply cap and leave waste in place…" Capping and leaving in place would appear to be defacto disposal and thus be equivalent to creating a new disposal site.	DOE understands the comment and appreciates that there are some similarities between in-place remedies and new disposal sites. However, there are significant differences as well in terms of remedial technologies, costs, site selection, design, and operational techniques. DOE will ensure that, if in-place remedies are ultimately shown to be necessary, they meet all applicable laws and
State of Ohio Environmental Protection Agency			

State of OH (OHEPA)-1	Tom Winston	DOE correctly notes the momentum and synergy that an agreed-upon end state can give to a site's clean-up program. Cleanup efforts at Fernald and Mound proceeded much more rapidly after a decision was made by DOE that the mission at these sites was to close and achieve cleanup. Subsequently, forward progress was also enhanced when it became more clear what the future land use of the sites would be; this allowed clean-up activities to be aligned with a risk-based end state in mind. On the other hand, forward progress at Portsmouth has been much more difficult, in large part because of the uncertainty about future mission and end state.	DOE agrees with your comment and will work to clarify Portsmouth's future mission and end state.
State of OH (OHEPA)-2	Tom Winston	Having noted the importance of these decisions, we must also point out that the first step in the process is for DOE to be very clear about its own intentions for the site in terms of future mission, ownership, etc. As the Department is well aware, these are not easy decisions to make and involve a variety of other critical factors beyond environmental considerations. To expect significant progress on developing a shared end state at a site like Portsmouth in a 3-month period is unrealistic. Simply stated, while some progress can be made, there are too many variables affecting the future of the site to expect this to be resolved in such a brief time frame.	See general response to Recurring Issue/Concern #5.
State of OH (OHEPA)-3	Tom Winston	Risk-based decision-making has been the norm at cleanups in Ohio, and from my discussions with other states, apparently risk has been a driver across the complex as well. CERCLA process, in particular, offers ample opportunity to take risk into account as cleanup decisions are made. What's possibly new or different about this policy and guidance is a call for a new look at end states from a site-wide perspective and then revisiting the cleanup framework and program to see if any adjustments are in order. We agree that this is an activity that could be worthwhile. However, from our perspective, the current wording of the policy and guidance unfairly and unnecessarily paints compliance agreements with a broad brush, characterizing them as roadblocks.	See general responses to Recurring Issues/Concerns #1 and #2.

State of OH (OHEPA)-3	Tom Winston	(cont.) Specifically, it is implied that risk has not been a factor in past decisions, that cleanup agreements don't appreciate the nature of hazards and risks, and that the agreements are flawed because they are piece meal and iterative. We don't agree and, quite frankly, find such posturing to be counterproductive to fostering a receptivity on the part of the regulator, tribal and stakeholder community to new approaches DOE may propose.	"……"
State of OH (OHEPA)-4	Tom Winston	We appreciate the clear statement that the Department will comply with the requirements of the nation's environmental laws and regulations. We, of course, also believe that state environmental laws must be obeyed. Regarding compliance with environmental laws, DOE needs to be careful that they do not craft a policy which is inconsistent with these laws. For example, CERCLA has a preference for treatment and this draft policy could be construed as preferential to the isolation or sequestering of contaminants. A reference to the remedy selection process and criteria in the National Contingency Plan could assure the appropriate balance and context.	DOE will comply with all applicable laws and regulations. See general responses to Recurring Issues/Concerns #2 and #4 for further discussion related to this comment.
State of OH (OHEPA)-5	Tom Winston	We would ask whether it is prudent to implement this policy at all sites? We recognize that it is hard to make the case that a good idea should not be implemented everywhere. However, it has been our experience that one of the biggest challenges to completing cleanup at Fernald and Mound has been the continuous changes that come down the pike... contractor changes, personnel shifts, program re-evaluations, re-baselining, new DOE policies and data calls, cost evaluations, budget shifts, etc. Each one diverts focus from the mission, and collectively they can hurt the forward progress we all desire. For sites that will close in 2006, at some point we hope that DOE will say, "Enough is enough" and let the team finish on the course that has been endorsed by the department, the regulators and the stakeholders. In this instance, we ask that the department at least recognize the huge amount of effort that has gone into agreement on end states at these two sites.	DOE is in the process of determining which sites will be required to develop a RBES vision. Please see the response to Recurring Issue/Concern #5 for further discussion related to this comment.

State of OH (OHEPA)-6	Tom Winston	One factor or consideration that should be discussed and evaluated during the preparation of a site's risk-based end states vision is Natural Resources Damages (NRD). Under CERCLA, Natural Resource Damages are injury to, destruction of, or loss of natural resources ("land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources"). The assessment of these damages would include the cost of restoring or replacing the injured resources, compensation for the interim loss of the resource and the reasonable cost of a damage assessment. While there may be some overlap to an evaluation of risk and an evaluation of NRD, often they will be separate. An example of this would be when the remedy is a decision to leave the resource contaminated, but isolate it from a potential receptor. Nevertheless, even when this risk is "managed", the "lost" or "injured" resource is important and should be considered in the end state decision and any evaluation of life cycle costs.	See general response to Recurring Issue/Concern #4.
State of OH (OHEPA)-7	Tom Winston	Long Term Stewardship (LTS) obligations and costs are strategic considerations as stated in the guidance. This may be even more important as DOE moves towards a department-wide LTS function that may more rigorously demand that near-term cleanup decisions take into account future LTS obligations, even making it a condition before a site is received into LTS implementation. In addition, uncertainty about assured funding mechanisms for LTS activities will color the discussion of this issue with regulators and stakeholders.	See general response to Recurring Issue/Concern #6.
State of OH (OHEPA)-8	Tom Winston	The policy could be more clear that end states should drive the remedy rather than the other way around. A firm statement to that effect could erase the uncertainty that has been noted by several reviewers.	See general response to Recurring Issue/Concern #3.
State of OH (OHEPA)-9	Tom Winston	There are a number of terms used in the documents that are unclear. Some examples include "'pure' risk", "effective and transparent institutional controls" (some more jaded observers may say that effective institutional controls is an oxymoron), "relevant pathways and receptors", and "conceptual model that defines what data needs exist". Tightening these up will assist in better and more uniform implementation of the policy.	See general response to Recurring Issue/Concern #3.

State of Oregon			
State of OR-1		We believe this policy fundamentally overlooks the body of the State and Federal laws that govern the development of cleanup plans and strategies to meet presently defined end states. We do not agree with the premise that cleanup has resulted in little real risk reduction at Hanford or other DOE sites, and that existing cleanup agreements are in large part to blame for this lack of progress.	See general responses to Recurring Issues/Concerns #1 and #2.
State of OR-2		Lost in the draft policy are the founding environmental philosophies of unrestricted future use and the use of treatment to establish permanent solutions to past industrial practices. Under State and environmental laws, cleanup is begun with a goal of achieving unrestricted use within a specified risk. Only if this is not possible are other potential land uses considered to evaluate whether cleanup can achieve acceptable risks under those limitations on use. The draft policy appears inconsistent with this philosophy, favoring isolation of contaminants, rather than removal and treatment.	See general response to Recurring Issue/Concern #8.
State of OR-3		Any end state policy that DOE might develop should be based on meeting state and federal law and regulations, while acknowledging the implementation history developed over the past decade. These basic tenets must be incorporated in the definition of risk that will become the cornerstone of any end state policy.	See general response to Recurring Issue/Concern #4.
State of OR-4		In many instances, end states have been discussed, negotiated, and defined to the extent legally allowed. We believe that the cleanup at Hanford, for example, is already grounded in risk-based end states. And, should that prove not to be the case at any specific waste site, the process already exists to make those necessary changes.	See general response to Recurring Issue/Concern #2.
State of OR-5		We do not believe the Tri-Party Agreement, which governs Hanford cleanup, has in any way been a roadblock at reducing risk. Over the nearly 14 years that this agreement has been in place, the State of Washington and the U.S. Environmental Protection Agency have been more than willing to negotiate changes in good faith when financial, technical or logistic issues warranted such changes.	See general response to Recurring Issue/Concern #1.

State of OR-6		The draft proposal suggests basing cleanup decisions on defined land uses, which are then expected to hold in perpetuity, and avoiding cleanup on lands whose near term defined uses would restrict exposures. For example, at Hanford this would mean that land set aside in the Hanford National Monument might be allowed to remain contaminated at high levels based on the presumption that human access will be limited. While access may be limited in the near term, we know from history that the uses we designate for land today will not remain forever. In time, the uses may and likely will change. Leaving high levels of contamination burdens future generations by increasing long term maintenance and monitoring while unnecessarily constraining	See general response to Recurring Issue/Concern #6.
State of OR-7		Oregon is willing to work with the DOE to develop a vision for an acceptable end state for the Hanford Site. The policy or strategy to be developed must retain these points; Compliance with State and Federal Statutes. Compliance wavers should be granted only after field remedial efforts have been demonstrated and failed. Data must be collected to demonstrate technical, economic, or safety impracticalities of continuing remedial actions.	See general response to Recurring Issue/Concern #4.
State of OR-8		Use of interim points or milestones. This is necessary due to DOE's annual funding cycle to derive the necessary level of performance and progress essential to protect human health and the environment. We do not understand why the draft policy criticizes interim actions. We have seen countless cases where taking interim action has both reduced risks and reduced future cleanup costs.	See general response to Recurring Issue/Concern #1.
State of OR-9		Demonstrate a preference for future unrestricted use. This will be the basis for any remedial strategy negotiation.	See general response to Recurring Issue/Concern #8.
State of OR-10		Use an open and transparent process. The process must include all stakeholders and tribes, and meet the intent of previously signed treaties and agreements.	See general response to Recurring Issue/Concern #10.
State of OR-11		Define uncertainty. Uncertainty associated with environmental investigations, and the compounding effect of multiples contaminants is a reality that must be accounted for in the establishment of remedial risk goals that reflect uncertainty and synergy.	DOE assumes that the commenter is not really looking for a definition of "uncertainty", for which there exists a large body of literature. Rather, DOE assumes the point is that remedial goals must be set with the recognition of the many sources of uncertainty that might enter into a risk assessment. If so, DOE agrees. DOE follows EPA's guidance for how to assess and present uncertainties in Superfund risk assessments, e.g., physical-setting definition uncertainties (which would include future land uses), model uncertainties, fate and transport and

State of OR-12		Risk must be collaboratively defined.	DOE agrees in general; however, EPA policy and guidance will need to be followed.
State of South Carolina Department of Health and Environmental Controls			
State of SC-1	Heath & Env. Control's	Based on our review, we believe the referenced documents are redundant to the existing processes already outlined in CERCLA guidance. The National Contingency Plan is clear in it's discussion of cleanup levels "This approach emphasizes the use of 10-6 as a point of departure while allowing site- or remedy-specific factors, including potential future uses, to enter into the evaluation of what is appropriate at a given site." It is clear from the NCP that CERCLA intended that the future land use of a site be considered when selecting final cleanup levels. In 1995, both EPA Region IV and South Carolina DHEC acknowledged the necessity to use future land uses in evaluating final cleanup levels at the Savannah River Site, and have implemented this approach in all cleanup decisions at SRS. This policy was documented in a response to the Savannah River Site Citizens Advisory Board recommendation. Department of Energy should rewrite the referenced policy and guidance to acknowledge that the existing environmental laws	See general response to Recurring Issue/Concern #2.
State of SC-2	Heath & Env. Control's	At the Savannah River Site nearly all of the industrial sites are located in the center of the site. Most of the operable units or release sites are clustered in these industrial areas. Nearly all of these units will be using industrial land use scenarios to calculate cleanup levels at these units. However, there are still several operable units that are in more remote areas of the site. South Carolina agrees with the Department of Energy that a plausible future land use scenario (or end state) is needed at these more remote locations, in order to move forward on cleanup decisions at these locations.	Thank you.
State of SC-3	Heath & Env. Control's	In the draft policy under the Policy Section it states that "End states, including selected remedies, must be based on an integrated site wide perspective…, rather than on isolated operable units and release sites." It is our understanding that future land use scenarios (or end states) could be applied site-wide or to smaller regions of a facility if different land uses are expected for difference portions of the site (i.e., some portioned industrial-some portion recreational). Please clarify this issue.	DOE believes that large sites may have multiple landuses.
State of SC-4	Heath & Env. Control's	It is unclear throughout the referenced documents what the difference is between "risk based end states" and future land use. Please clarify this distinction.	See general response to Recurring Issue/Concern #3 and definitions section of final policy/guidance.

State of SC-5	Heath & Env. Control's	Although generally end state states (or future land use scenarios) should be used to select cleanup levels, there may be opportunities on a unit specific basis to remediate the site to an unrestricted use with little more effort than it would take to achieve the end state cleanup level. The referenced documents should recognize these opportunities as a way to reduce life cycle costs of land use controls.	See general response to Recurring Issue/Concern #8.
State of SC-6	Heath & Env. Control's	The use of future land use scenarios or end states should not be used to circumvent the "preference for treatment" philosophy of the CERCLA. In cases where contaminants are determined to highly mobile or highly toxic, the NCP specifies a preference for treatment over institutional controls. The guidance should be revised to reflect this philosophy.	See general response to Recurring Issue/Concern #8.
State of Tennessee Department of Environment and Conservation			
TDEC-1		Interim milestones are necessary to monitor and gage progress, especially with multi year projects.	See general response to Recurring Issue/Concern #1.
TDEC-2		The FFA coordinates CERCLA and RCRA corrective action regulations on the ORR.	See general response to Recurring Issue/Concern #4.
TDEC-3		While end states must protect the relevant receptor based on the accepted land use additional cleanup maybe required to prevent further ground water contamination.	DOE agrees and will consider your comment.

TDEC-4		Sites that are presently using CERCLA risk-based principles to formulate cleanup strategies for their site should not be expected to reformulate their plans. As noted by others the effort would be duplicative and a waste of limited cleanup funds.	See general response to Recurring Issue/Concern #1.
TDEC-5		The guiding principles should include a bullet establishing assured funding for perpetual institutional controls.	See general response to Recurring Issue/Concern #6.
TDEC-6		It should be understood that establishing risk-based end states may not result in cost savings over DOE's present cleanup estimates. Shallow land burial may not be the preferred risk-based disposal method for transuranic waste or pyrophoric uranium.	DOE understands and agrees with the comments. Such an outcome--wherein the RBES results in higher rather than lower costs--would be entirely consistent with the intent of the RBES initiative since DOE is not trying to minimize along the single dimension of costs. DOE believes RBES approach is needed to expedite cleanup program and also achieve significant risk reductions.
TDEC-7		When discussing ARAR waivers it must be with the full expectation that DOE will meet State laws and regulations when carrying out the CERCLA process in Tennessee. In order for Tennessee to consider a waiver of State ARARs the criteria as described in CERCLA for obtaining such waivers must be fully met and agreed upon by the state.	See general response to Recurring Issue/Concern #4.
TDEC-8		The example given by DOE for when the “end state” begins is troublesome. The “end state” should begin when the preferred CERCLA remedial action has met the accepted remedial action goal.	See general response to Recurring Issue/Concern #3.
TDEC-9		The End State Vision Considerations should include a bullet noting that effort should be made to minimize the need for institutional controls to manage risk.	See general response to Recurring Issue/Concern #7.
TDEC-10		The End State Vision Considerations should include a bullet noting that DOE would be accountable for any Natural Resource Damage Assessment (NRDA) claims that may remain after CERCLA remedial actions are complete regardless of land use objectives.	See general response to Recurring Issue/Concern #4.
TDEC-11		Item 9 under End State Vision Considerations should be expanded or an item 10 added to include all aspects of Long Term Stewardship including assured funding.	See general response to Recurring Issue/Concern #7.
State of Washington Department of Ecology			

WA State Dept.of Ecology-1		Purpose and Scope: The basic proposition that the program should be focused on a clearly articulated vision of the end point of cleanup is valid. However, it is not clear that refining and clarifying that vision so that it is both effective and achievable can be done without an iterative process that includes interim milestones and adjustments to changing conditions (e.g. groundwater issues at Hanford). Nor is it clear that DOE sites have failed to have such end state visions in place, thereby causing inefficiency. Perhaps it would be helpful if the Department were to be more specific as to instances where this is demonstrably the case.	See general response to Recurring Issue/Concern #2
WA State Dept.of Ecology-2		Background: The remarkable disconnect in the discussion of compliance agreements is this: Compliance agreements were (a) specifically designed to overcome piece-meal application of regulations to specific facilities or sites, (b) to integrate various regulatory regimes, and (c) to capitalize on processes, such as RCRA permitting and CERCLA decision-making that are designed to do just what this policy claims to be doing.	See general response to Recurring Issue/Concern #1.
WA State Dept.of Ecology-2		(cont.) Background: Moreover, the interim milestones and schedules were designed to produce just the kind of learning described in the third paragraph of the background discussion. Over its 13 years, the compliance agreement has been amended many times in order to further rationalize its requirements and to integrate new knowledge. Moreover—and this is a key point—its emphasis has shifted from process milestones to requirements to achieve completion of significant projects. In other words, it has shifted from learning to doing, and been directed at achievement of specific end points. It has been DOE, not regulators or stakeholders, who has subsequently wanted to change or vacate these project completion milestones. In short, the compliance agreement, at least at Hanford, has been an instrument for solving the problems elaborated, not their source.	See general response to Recurring Issue/Concern #1.

WA State Dept.of Ecology-2		(cont.) Background: As noted above, the compliance agreement has been a major tool in managing the "diverse but applicable regulatory regimes". The "failure to adequately link remedies with future land use" is a somewhat mysterious comment, given the degree of effort many DOE sites have made, over more than ten years, to articulate expected future land uses.	See general response to Recurring Issue/Concern #2.
WA State Dept.of Ecology-3		Policy: The opening policy paragraph raises two questions:1) Does the directive that each site does this activity negate all the work previously done at many sites to do approximately what the policy appears to call for? 2) Does the "do it right and completely the first time", without interim steps, mean that the Department believes it now has all the information it needs, and that further learning, knowledge accumulation and sharing, and technology development are no longer required?	See general response to Recurring Issue/Concern #3.
WA State Dept.of Ecology-4		Requirements: The Department will not be the arbiter of whether it has complied with the environmental laws. Regulator acceptance of the "compliance strategy" is therefore a critical component.	DOE accepts that it does not have unilateral authority in regard to compliance issues.
WA State Dept.of Ecology-5		Requirements: Integrated, sitewide perspective is important. For larger sites, however, different visions may apply for different portions of the site. In any case, it is also important to consider cleanup in the broader context of surrounding land and regional ecosystems.	DOE agrees that different visions may apply to different portions of a site.
WA State Dept.of Ecology-6		Requirements: The prescription to base protection of receptors on intended land use appears to be a surrogate for a complex system of institutional controls. If "intended" land use is assumed to restrict access to residual contamination, then something more than present "intent" is required to assure protectiveness. Moreover, land use is both important to and driven by a broader set of values than protection of receptors, and these values need to be accounted for in anticipating future land	See general responses to Recurring Issues/Concerns #7 and #8. DOE agrees that future land uses are driven by a complex set of factors, and not just receptor protection.
WA State Dept.of Ecology-7		Requirements: Interim risks should be considered and minimized, according to an ALARA principle. However, the guidance gives no time frame to "actions that result in little or no reduction in risk to the public or the environment". The inter-generational implications need to be weighed.	See general response to Recurring Issue/Concern #7.

WA State Dept.of Ecology-8		Requirements: Effective and transparent institutional controls are required where contamination above action levels is left in place. The policy needs to recognize, however, that the overwhelming evidence at hand is that our society generally, including USDOE, has not found a satisfactory approach that assures effectiveness or transparency. End-state decisions, including "intended land uses" need to take account of an analysis that, as the National Research Council says, assumes institutional controls will fail in the fairly near term. End-state decisions also need to take account of the analysis of the implications of failure of physical barriers.	See general response to Recurring Issue/Concern #6.
WA State Dept.of Ecology-9		Requirements: The risks of present-day remedial actions must be balanced against the risks of failure of both institutional controls and physical barriers. This is not solely a technical or engineering exercise, but involves balancing a wide array of societal values. This is not a matter of stakeholders and regulators being consulted or "signing onto" the DOE site's vision, but must come from a broader give and take.	DOE agrees that the remedy selection process must factor in non-technical considerations, and that such considerations may involve balancing a wide array of societal values.
WA State Dept.of Ecology-10		Requirements: The anticipation of failure of control or, more likely, of changing conditions and growing knowledge, suggest not just "contingency plans" but a regularized system of revisiting "end state" visions, decisions and accomplishments on some periodic basis.	DOE will consider your comment in the final document.
WA State Dept.of Ecology-11		Strategic Considerations: It is unclear how DOE internal planning can adequately determine whether significant benefits will accrue—and be perceived to accrue—to surrounding communities without consulting them. It is also unclear how DOE internal planning can adequately define legal options and pathways for change without some discussion with its regulators.	See general response to Recurring Issue/Concern #10.
WA State Dept.of Ecology-12		Strategic Considerations: It is also unclear how a "conceptual model that defines what data needs exist" can be posited and receive regulator and stakeholder support unless such a model has previously been widely discussed, demonstrated, and its results reviewed.	DOE did not intend to suggest that unreviewed conceptual site models would be used. Language will be clarified or deleted.
WA State Dept.of Ecology-13		The guidance's encouragement to take advantage of CERCLA ARAR waivers is inappropriate and will only raise regulator and stakeholder skepticism of DOE's stated intention to comply with federal and state environmental laws.	See general response to Recurring Issue/Concern #4.

WA State Dept.of Ecology-14		Strategic Considerations: DOE may have a huge potential liability for natural resource damages at some sites. It is a glaring omission to have a discussion of "risk-based end states" without a clearly articulated vision of how to minimize residual injury to natural resources. That vision should include a strategy of engaging natural resource trustees in the definition of end states.	See general response to Recurring Issue/Concern #4.
WA State Dept.of Ecology-15		End State Considerations: Some additional guidance should be provided with regard to life-cycle costs, so that standard discounting does not undervalue long-term risks. It is unclear how life-cycle costs can be assessed and "trade-offs" made between activities that occur over many years. Without adequate characterization it is impossible to understand what the remedial actions will be. Without knowing the degree of success of a remedial action you can't project the requirements and cost of institutional controls.	See general response to Recurring Issue/Concern #7.
WA State Dept.of Ecology-16		End State Considerations: The term "steady state" should have a timeframe of proven performance associated with it. That is an end state cannot be achieved until the pump and treat is operational and reaching treatment objectives for a given period of time.	See general response to Recurring Issue/Concern #3.
WA State Dept.of Ecology-17		End State Considerations: As a rule, "recreational use" cannot be assumed unless accompanied by clear, reliable institutional controls.	DOE agrees.
WA State Dept.of Ecology-18		End State Considerations: As noted elsewhere, a land use model needs to take account of the values of present and future communities that will influence the actual land use and determine in large measure the reliability of institutional controls. We are skeptical that this kind of knowledge resides inside EM or the various sites, and strongly suggest the need for involving local communities, Tribes, and experts in land use	DOE agrees that determining land use patterns necessarily must involve a broad range of stakeholders. Also see general response to Recurring Issue/Concern #10 for further discussion related to this comment.
WA State Dept.of Ecology-19		End State Considerations: Contingency plans and monitoring are not sufficient in themselves. There must be a broad-based acceptance of an institutional pattern that will both sustain and demand accountability for protective measures, physical and institutional, and a mechanism to assure periodic re-evaluation of remedies, their effectiveness, new technologies, and changed conditions.	DOE generally agrees. Also see general response to Recurring Issue/Concern # 9 for further discussion related to this comment.
WA State Dept.of Ecology-20		End State Considerations: We would suggest an additional consideration: DOE/EM should have a means to learn from its past endeavors, to share knowledge among sites, and to continue to accumulate knowledge as end states are reached and additional visions are developed. There should be provision for strategic knowledge management as a part of corporate policy.	DOE agrees with the comment and will consider the recommendation in the Corporate Strategy.

WA State Dept.of Ecology-21		Scope and Content: The description of what the document is not helpful. However, it then poses the question: Why should regulators or stakeholders endorse it if it is not a plan, a budget baseline document or a regulatory document? Is it to be a decision document? A document to drive DOE internal strategy? If the latter, then any part of it that is not acceptable to regulators and stakeholders will lead to confrontations as DOE attempts to apply it in one of these other arenas.	DOE believes regulator and stakeholder participation is a key aspect of obtaining a common end state vision for the site. The RBES vision document will provide end state description at the site when cleanup is completed.
Strauss, Peter (CPEO-MEF)			
CPEO-MEF(2)-1	Peter Strauss	This policy initiative has some appealing and some very unappealing aspects. The most appealing is that the debate will shift towards end-use, not the endless series of documents and revisions of documents. But here's the rub: end use, as I see it at most large DOE sites and many other federal facilities assume that the federal government will remain the steward of the site, and the use is not assumed to be much different than it is now. There are some exceptions, but it is borne out by DOE's Long-Term Stewardship Plan. For example, as a Technical Advisor to Tri-Valley CAREs, it has long recommended that DOE assume that future use of Site 300 (for those unfamiliar, an 11-square mile high explosives test site operated by Lawrence Livermore National Laboratory) be a multiple use area supporting ecological preserves, recreation, industrial, commercial and residential uses. We realize that some small areas will never be cleaned up to support any of these uses and that these will have to be controlled. If Tri-Valley CARE's position	DOE agrees the end state should be developed in consideration of input from local stakeholders. However, the end state should be based on the reasonable future land use, not on presumed land use in the distant future. Please see the general responses to Recurring Issues/Concerns #3 and #7 for further discussion related to this comment.

CPEO-MEF(2)-1	Peter Strauss	(cont.) Another example (a non-DOE site) is one we've heard so much about through this listserve: Moffett Field. Site 25 as it is known, is currently a wetland area that is used as a storm-water retention basin. The Navy and the current landlord had insisted for years that this would be its future use and clean-up levels were designed for this use. The community wanted increased clean-up levels that would support opening up this wetland to the influence of San Francisco Bay. Through a series of fortuitous events, a strong showing by the community, combined with pressure by the community to conduct further characterization, NASA seems to have changed its mind, and is contemplating an end-use (and clean-up levels) asked for by the community. This is a major accomplishment.	"……"
CPEO-MEF(2)-1	Peter Strauss	(cont.) Unfortunately, it is probably very rare that the government has changed its mind about land-use assumptions. At Moffett, if the Navy had its way two years ago when it proposed cleaning up the wetland to support continued operation as a storm water retention pond, the intervening developments would have been meaningless. Both of these examples illustrate the importance and possible pitfalls of what DOE poses as a primary question that will guide clean-up - what is the future end-use. I would argue that the "future" should be given a very broad interpretation.	"……"
Wood, L.A. (CEAC)			
Public-CEAC (LBNL)-1	L.A. Wood	Adopt motion of December 5th, 2002 on accelerated clean up: That Council direct City Manager to write a letter to the Department of Energy (DOE), Regional Water Quality Control Board (RWQCB), the Department of Toxic Substances Control (DTSC), and our federal elected officials stating that the City is committed to cleaning contaminated sites at Lawrence Berkeley National Laboratory (LBNL) to the maximum extent possible. The City strongly objects to using risk based clean up standards which permit significant amounts of federally generated contamination to remain in place which threatens Berkeley's groundwaters. Berkeley urges that funding for the Site Restoration Program at Lawrence Berkeley National Laboratory not be cut.	Your comment is noted and it has been provided to the Area Office.
Public-CEAC (LBNL)-1	L.A. Wood	(cont.) Instruct a letter to be sent to the San Francisco Water Quality Control Board (RWQCB) and the State Water Resources Control Board (SWRCB) requesting these agencies maintain the highest possible uses of groundwater in the Berkeley sub-basin in the amended Water Quality Control Plan (Plan). The amended Plan should recognize the intent of the City to use its groundwater resources in the future for municipal, domestic, irrigation and industrial purposes.	"……"

Public-CEAC (LBNL)-1	L.A. Wood	(cont.) On March 19, 1996, the City Council voted on a recommendation from the Community Environmental Advisory Commission and the Planning Commission to use the public comment forum to send a communication to the SWRCB regarding proposed containment zone policies. The City's position voiced concerns with the draft containment zone language which, as written, would have allowed high levels of contamination to be left in place. The position also acknowledged that containment zones should permit site closure where the highest clean up levels could not be met due to technological and financial constraints.	"……"
Yakama Nation			
Public-Yakama-1	Yakama Nation	Compliance Time Frame: Much of DOE's environmental restoration effort at the national nuclear complex is based on a Federal commitment to achieve compliance with Federal law (including Treaty law). In many cases, such compliance has yet to be achieved. Instituting long-term stewardship, establishing institutional controls, or irreversibly and irretrievably committing resources in lieu of cleanup is unacceptable. A time frame for compliance, without active management, must be established in the risk-based end states project.	See responses to Recurring Issues/Concerns #4 and #8, concerning the remedy selection process and long-term stewardship program.

Public-Yakama-2	Yakama Nation	It is recommended that any risk-based analysis include an unrestricted use scenario, including an analysis of all reasonable activities which may heighten the risk to future generations relative to risk resulting from current activities.	The decision to evaluate unrestricted use scenarios will continue to be evaluated on a case-by-case basis during the baseline risk assessment and remedy selection process and in accordance with the National Contingency Plan, Resource Conservation and Recovery Act, and other applicable laws and regulations. DOE agrees to consider, on an exception basis, opportunities to remediate sites to less restrictive uses for relatively small
Public-Yakama-3	Yakama Nation	Clearly, DOE has considered risks based on Treaty use scenarios to be optional in its planning, and this undermines trust that DOE intends to meet Treaty compliance requirements. However, since DOE has stated that the HPMP will be updated to reflect the risk-based end states work, the language in the July 11, 2002 draft of the HPMP regarding evaluation of Tribal Treaty use scenarios should be reinstated. These risk analyses should include an unrestricted Tribal Treaty use scenario considering all reasonable contaminant pathways. Without such a Treaty use scenario, the DOE risk-based end state effort will lack any value or credibility with the Yakama Nation, and will contradict the stated purpose of the risk-based end states project.	Pursuant to DOE's Tribal Government Policy, DOE recognizes the Federal trust relationship and will fulfill its trust responsibilities to the Yakama Nation and other Tribal governments. DOE will comply with treaties signed with Tribal governments. See response to Recurring Issue/Concern #4.
Public-Yakama-4	Yakama Nation	It is therefore necessary for the risk-based end states project to exclude such wastes from consideration; by law, such waste must be permanently isolated from the biosphere, regardless of the findings of any risk analyses for these classes of waste.	DOE recognizes that certain categories of radioactive waste must be disposed of in a geologic repository, as required by law.
Public-Yakama-5	Yakama Nation	The DOE risk-based end states project should incorporate the best radiation dose-response science available, including the findings of the Phase II work of the above referenced NAS Committee.	DOE is familiar with the cited National Academy of Science's studies. DOE will continue to conduct cleanup in accordance with all applicable laws and regulations. Those laws and regulations are updated, by appropriate legislative processes, to incorporate findings and recommendations from newly accepted scientific studies, such as those published by the National Academy of